

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

TABLE OF CONTENTS

700	Introduction
701	Policies
710	Intake Process
711	Screening of Recurrent Referrals
712	County of Jurisdiction/Legal Residence
713	Transferring a Referral at Intake to Another County
714	Transferring a Referral Still Under Investigation/ Assessment to Another County
715	Transferring an Indicated Case to Another County
716	Referrals on Department of Social Services Employees or Employees' Immediate Families
717	Interaction with Law Enforcement
718	Initiating Family Court Proceedings
719	Child Protective Services Investigation/Assessment
720	Refer to Section 721, Out of Home Investigations.
721	Out of Home Investigations
722	Investigation of Medical Neglect of Disabled Infants
723	Cases Involving Indian (Native American) Children
724	Client Opposition to Intervention
725	Appeals Process
726	Emergency Protective Custody
727	Emergency Protective Custody by Ex Parte Order
728	Working With Legal Representation
728.01	Attorney for Parent
728.02	Attorney or Guardian Ad Litem
729	Child Protective Services (CPS) Alerts
730	Family Assessment
731	Casework Treatment Process
732	Emergency Assistance Services (EAS) Eligibility Determination, Authorization and Tracking Process
732.01	Social Service Block Grant (SSBG) Flex Funds
733	Non-Emergency Removal Hearings
733.01	Hearings to Compel Services
733.02	Judicial Review Hearings
734	Case Plan - Treatment Services
735	Decision to Return the Child Home
736	Death of a Child
737	Use of Volunteers
738	Referrals to Child Support Enforcement Division and Establishing Paternity in Child Abuse and Neglect Hearings

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- 750 Children's Code Reform Act of 1996
- 751 Criminal Sexual Conduct
- 752 Law Enforcement; Domestic Violence; Arrest With or Without Warrant
- 752.01 Entry of Criminal Court Data on the Child Abuse and Neglect Central Registry
- 754 Indian Child Welfare Act
- 758 Appendix
- 758.01.03 Excessive Corporal Punishment Guidelines
- 761 Flex Funds

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

700 Introduction

Revision Number: 03-01, Effective Date: 09/04/2003

STATUTES AND REGULATIONS

Statutes and Regulations 766 that relate directly to the contents of the Child Protective and Preventive Services Manual are: South Carolina Code of Laws, 20-7-110 through 20-7-766 (Children's Code Reform Act of 1996); 27 South Carolina Code Annotated Regulations 114-4510 through 114-4550 (Governs Child Protective Services Involving Institutions).

OTHER AGENCY POLICIES

Related guiding principles and policies which govern the Department of Social Services follow.

The guiding principles mandate the following:

- Principle: 1. To respect the humanity and dignity of each person for whom the agency delivers quality services.
- Principle: 2. To respect the humanity and dignity of each staff person.

Quality Service

It is the policy of the Department of Social Services to promote a work environment that encourages each staff person in the Department of Social Services to perform each duty exactly as required or cause the requirement to be officially changed to what the agency and its clients really need.

MISSION STATEMENT FOR CHILD PROTECTIVE AND PREVENTIVE SERVICES

Child Protective and Preventive Services are offered to families by the South Carolina Department of Social Services which is mandated by law to protect children from abuse or neglect within their families, in foster care, or by persons responsible for the child's welfare as defined by statute. Services are provided to strengthen families; to enable children to remain safe in the home; to temporarily remove from parental custody a child who is at imminent risk of harm; or to pursue termination of parental rights and assure the child permanency in a substitute family if the custodial family cannot be preserved without serious risk to the child. Primary elements of this mission include:

1. Providing services intended to minimize harm to children and maximize the ability of families to protect and care for their own children.
2. Providing services for children and their families on the principle that the best child welfare is good family welfare.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

3. Assessing allegations of abuse or neglect of children to determine if they are in need of protection. Where abuse or neglect is substantiated, these services should assure the support necessary to enable adequate family functioning or to intervene to protect children until parents are able to do so.
4. Recognizing that Child Protective and Preventive Services are **child centered and family focused**. They are designed to ensure that reasonable efforts are made to maintain children safely in their own home, to reunite the family as soon as possible if removal of a child or parent is necessary, and to assure permanency in an adoptive home or other permanent situation if parental rights must be terminated.

PHILOSOPHICAL TENETS OF CHILD PROTECTION

The role of the family in American society is important in our Nation's history and tradition. Society presumes that parents want to and do act in their children's best interest. Based on that assumption, parents have a right to rear their children if they are willing and able to protect them. However, the Supreme Court provided that this presumption can be overcome and cited "the incidence of child abuse and neglect as grounds for rebutting parents rights." Therefore, when parents cannot meet their children's needs and protect their children from harm, society has a responsibility to intervene to protect the health and welfare of children. Any intervention into family life on behalf of children must be guided by the legal base for action, strong philosophical underpinnings and sound professional standards for practice. This section describes the philosophical tenets on which the community's responsibility for child protection is based.

Philosophical Tenets

Communities should develop and implement programs to strengthen families and prevent the likelihood of child abuse and neglect. Raising children today is a challenging proposition. A number of societal factors make it difficult for many to be effective parents, for example, the use of drugs; the lack of support from extended families for those living in rural as well as urban communities; the number of teenage parents; the increasing number of families without homes; and the rate of joblessness for many unskilled adults. These factors affect the level of risk of maltreatment for many children. There is a need for communities to implement prevention programs aimed at identifying high risk families and to provide supportive intervention to reduce occurrence of maltreatment.

Child maltreatment is a community problem; no single agency, individual or discipline has the necessary knowledge, skills, resources or societal mandate to provide the assistance needed by abused and neglected children and their families. Child abuse and neglect is complex and multidimensional. No one service or intervention has been shown to prevent or treat child maltreatment effectively. Therefore, the expertise and resources of all agencies and professionals who work with children and families are needed if the community's prevention and treatment efforts are to be successful. To optimize the effectiveness of the multidisciplinary response to child maltreatment, it is important that all participants respect and preserve the distinct roles of each involved professional group while forging a functional team to address this complex problem.

Intervention must be sensitive to culture, values, religion and other individual differences. It is important for professionals to be aware of the essential uniqueness of each individual. Since there is no single cause of child maltreatment, the community response should be individualized to examine the particular circumstances of each child and family. Since many abusive and neglectful adults have similar problems, it is easy to categorize or pigeonhole them and then offer packaged solutions. While people may have similar problems, it

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

is easy to categorize or pigeonhole them and then offer packaged solutions. While people may have similar problems, there are elements of individual situations which will invariably be unique. Therefore, intervention must consider the unique background, strengths, and resources of each family. Consequently, professionals must develop cultural competencies in working with individuals and families different from themselves.

Professionals must recognize that most parents do not intend to harm their children; rather, abuse and neglect is the result of a combination of factors: psychological, social, situational, and societal. Parents may be more likely to maltreat their children if they were emotionally deprived, abused, or neglected as children; are isolated without family or friends on whom to depend; feel worthless and have never been loved or cared about; are emotionally immature or needy; abuse drugs or alcohol; or are in poor health. Parents who harm their children through abusive and neglectful behavior often feel remorse about their maltreating behavior, however, their problems often prevent them from stopping their harmful behavior.

In order to be helpful to families, service providers need to believe that many maltreating adults have the capacity to change their abusive/neglectful behavior, given sufficient help and resources to do so. All forms of helping are based on the belief that people have the strength and potential to make changes in their lives. While some children and families need help only briefly, others need assistance, in one form or another, for long periods of time.

If our goal is to help families protect their children and meet their basic needs, then the community's response must be nonpunitive, noncritical, and conducted in the least intrusive manner possible. One of the essential ingredients in developing a therapeutic relationship is demonstrating respect for the client. To show respect, professionals must believe in the inherent dignity and worth of all human beings. Thus, people do not have to earn respect, they are automatically worthy of respect by virtue of their being human. This does not mean that we approve of a caretaker's abusive or neglectful behavior. It does mean that we must show respect for the person, while disapproving of his/her actions.

Growing up in their family is optimal for children, as long as children's safety can be assured. Maintaining the family as a unit preserves the bonding and loving relationship with the parents and siblings and allows the children to grow and develop within the culture and environment most familiar to them. Therefore, if safety for children can be assured, our first goal is to maintain children in their own homes by strengthening families so that they can meet their children's developmental needs and protect them from harm. Regardless of the physical and emotional trauma children may suffer at the hands of their parents, they develop attachment to their parents, even though the attachment may be dysfunctional. Our efforts must first be to empower families to meet the needs of their children and to resolve the problems that led to maltreatment.

If families cannot or will not meet their children's needs or protect their children from harm, and children have to be removed from their families to ensure their safety, all efforts must focus on a permanent plan for the child. In most cases, the preferred permanency plan is to return children to their families. Removing a child from his/her family should be a measure of last resort; it should be used only to ensure the child's safety. This is because removal of children from their parents alters children's developmental needs; children experience loss of the family, identity confusion, and negative effects on their self-concept. Prolonged psychological vulnerability lessens the likelihood of successful life experiences as an adult. Children in foster care live day-to-day with an uncertainty of knowing that they can be moved at any minute. Children who live with their families rarely suspect that their families would expel them or that they could be taken away, even if these ideas are verbalized by parents in anger. However, once separated, the reality of this becomes compelling in the child's life experience. Each day and hour lived without the reassurance of

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

permanence detracts from a child's capacity to form trusting relationships, something needed by all human beings to survive in the larger society.

701 Policies

Revision Number: 07-09, Effective Date: 08/08/2007

This section specifies the policies of the Department of Social Services that guide all practice and procedure associated with Child Protective and Preventive Services.

1. Persons referred for child protective services are eligible without regard to income.
2. Staff must successfully complete the agency's child welfare services certification program prior to being assigned the child protective services intake or assessment function.

After successful completion of the program specific component of the child welfare services certification program (currently Phase 1 & 2), staff may provide treatment services under close supervision of certified program management staff. Under close supervision, staff who have not completed any certification training may provide case support services such as transportation of clients, arranging and observing visits, making referrals, follow up on medical reports, and other similar duties.

All staff are expected to maintain a level of professional expertise through ongoing training on child abuse and neglect.

3. Only certified staff of the Department are authorized to screen referrals made to Child Protective and Preventive Services in order to ensure that the screening decision is in compliance with SC Code of Laws and agency policy.
4. The Department shall use a standardized procedure of casework practice for assessing safety and risk, and providing, documenting and terminating child protective services to families and children.
5. The [policy and](#) practice standard of the department is that Child Protective Services staff will conduct at least one face to face interview [once a calendar month](#) with the victim child, siblings and any other children in the home, and parents, protective adult, and/or other caregiver during the time a case is open for child protective services. The purpose of this visit is to assess for child safety and to assess progress toward meeting treatment goals to reduce future risk of harm. Additional visits should be made as determined on a case by case basis given the issues specific to each family.
6. The Department is authorized to provide a process for the review and amendment of cases indicated for child abuse or neglect pursuant to Section 20-7-650, which are not otherwise being brought before the family court for disposition. This process is authorized and defined under SC Code of Laws Ann. Section 20-7-655.
7. It is the policy of the Department that in cases indicated under Section 20-7-650 where the individual determined by a preponderance of the evidence to have abused or neglected the child, disagrees with or challenges the case decision and the safety of the child is in question, the case **MUST** be taken to Family Court.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

In cases where treatment services are to be provided or are reasonably expected to be provided and the individual or family disagrees with the indicated decision and/or the decision to deliver services, those cases **MUST** be taken to Family Court. There can be little effective treatment and the safety of the child is in question when there is no acknowledgement of the abuse or neglect. The Administrative Appeals process cannot coerce treatment nor address child safety.

8. Client case records must be kept current in the automated case record (CAPSS). All case activity should be documented in CAPSS as soon as it occurs but no later than thirty (30) calendar after the action; documentation of critical events (such as removals, court action, and others as determined by supervisor) must be completed within ten (10) calendar days.

Note that the documentation of initiating a CPS investigation and the CPS case decision must be entered within five days of the activity (reference Section 710 and 719). The monthly visit for in home treatment cases must be documented by the end of the month for data reporting purposes. (reference Section 731 and D04-22).

710 Intake Process

Revision Number: 06-03, Effective Date: 05/19/2006

INTRODUCTION TO PROCEDURES

The following sections, 710 through 738, include a step by step outline of procedures related to job functions of the Child Protective Services Unit in each County Office for Child Protective and Preventive Services. These procedures are written with an awareness that successful implementation requires a coordinated effort that involves a broad range of community agencies and professionals, ongoing supervision, consultation and support for staff, as well as the allocation of adequate resources as mandated by the South Carolina Code of Laws. These procedures are intended to be applied in conjunction with the Children's Code as amended, the Indian Child Welfare Act and other pertinent laws. **(See Section 750, Children's Code, South Carolina Code of Laws and the Indian Child Welfare Act (ICWA)).**

NOTE: The automated system referred to in Procedures is the Child and Adult Protective Services System (CAPSS). Please refer to CAPSS Handbook for data entry guidance to navigate the system.

NOTES: The agency's safety and risk assessment and service planning document is the **Child and Family Assessment and Service Planning Tool (CFASP), DSS Form 30231.**

Reference Section 710.01 provides specific intake screening criteria and standards for decisions at intake, to include the urgency of response, working with reporters and families at intake.

For local operating and communications procedures between local Law Enforcement and DSS, refer to your county's DSS/Law Enforcement Protocol. This protocol is mandated by SC Code of Laws Ann., Section 20-7-610. This protocol should be reviewed annually and revised as needed.

710 Intake Process

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Purpose: To assist the reporter in giving information needed for the Department to make a decision regarding:

- a. whether or not the information shared meets the screening criteria for a child abuse or neglect investigation;
- b. the urgency of the response (immediate danger or less urgent); and
- c. the manner of the response - conduct CPS investigation and/or make referral (law enforcement, regulatory staff, other agencies as appropriate). Refer non-CPS situations to community resources for services as needed.

County Director

1. Ensures compliance with the state statute.
2. Ensures 24 hour coverage for child protective services referrals.

Social Service Worker/Intake Worker

3. Gathers from the reporter information necessary to determine the agency's response. Makes appropriate referrals to community services, Family Independence, law enforcement, or others as appropriate when the call is a request for assistance that is clearly not abuse or neglect related.

Gathers information from reporter to determine if family or individual has a communication limitation (i.e., limited English proficiency, speech or hearing impaired). If such a situation exists, refers to Limited English Proficiency/Sensory Impairment (LEP/SI) Policy and Procedures in Directive Memo D02-39, dated September 23, 2002, for specific guidelines to assist the department to communicate with the family and to respect the individual's rights.

4. As deemed necessary, informs the person making the referral of the provisions of Sections 20-7-540 and/or 20-7-695, S. C. Code of Laws, regarding immunity and disclosure.
5. Initiates intake process on automated system using CAPSS intake worksheet, will complete intake on CAPSS by the end of the next working day after decision to accept referral as report.
6. Researches any CPS or other human services involvement found in the search process to include data base, Central Registry, paper files and any prior screened out calls (any information received pursuant to Section 20-7-510 but not investigated by the department and classified as Unfounded Category IV) and information contained in Unfounded Categories I, II, & III reports. The purpose of this search is to use all available agency information on a family to assess for immediate safety and future risk issues and to make the most appropriate agency decision according to the statute. **(See S. C. Code of Laws, Section 20-7-510).**
7. Checks other agency systems (CHIP, HSRS) for prior agency records or to determine if the family is known to the agency and considers the impact of any prior involvement on this referral.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

8. Makes collateral contacts with professionals, such as but not limited to, school teachers, law enforcement officers, Department of Juvenile Justice, Department of Health and Environmental Control staff as necessary and appropriate to obtain information regarding the allegation. Documents contacts in dictation.
9. In consultation with supervisor, reviews and applies guidelines for referrals involving drug exposed infants and third trimester fetuses when information suggests substance abuse by the parent or pregnant woman, or person responsible. **(See S. C. Code of Laws, §20-7-736, and Section 710.01.14 and 710.01.15).**
10. Staffs with the State Office Response Team all other referrals involving the behavior of a woman in her third trimester which do not allege the use of an illegal substance but which may place the unborn child in imminent peril. Contacts state office team, composed of child protective services, foster care and Office of General Counsel staff, at (803) 898-7318.
11. Accepts for investigation referrals of educational neglect when it is evident that the parents have not cooperated with school officials and the school has made efforts to get the child to school and the efforts were unsuccessful due to the parents' refusal to cooperate. An example of school's efforts may include a petition to family court by the school requiring the child to attend school and the parents to cooperate with the school.

Referrals to Law Enforcement - Non-DSS

Social Service Worker/Supervisor

12. Refers allegations of suspected child abuse and neglect by school personnel involving students in nonresidential school settings to law enforcement for the purposes of police investigation. School personnel are not considered to be a "person responsible for child's welfare" as defined by §20-7-490. Allegations of suspected child abuse/neglect in foster homes, group homes, residential child care facilities are referred to OHAN. (Refer to Section 721, Out of Home Investigations).
13. Informs mandated reporters of the mandated reporters' requirement to report to law enforcement allegations which involve persons other than the parent, guardian, or other person responsible for a child's welfare as defined by §20-7-490. **(Reference §20-7-510, S. C. Code of Laws).**
14. Assists other reporters to refer information to law enforcement when the alleged perpetrator is not a person responsible for child's welfare by providing telephone numbers or other actions **(Reference §20-7-510(B), S. C. Code of Laws.)**
15. Makes report to law enforcement when, as mandated reporter, staff believes a child has been abused or neglected by a non-parent or guardian as outlined in the amended Law Enforcement/DSS Protocol **(Reference S. C. Code of Laws, §20-7-510 and §20-7-610).**

Social Service Worker/Supervisor for Intake Decision

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

16. In consultation with supervisor, carefully reviews and considers all information gathered to decide whether to accept the referral as a CPS report, not to accept, or place in pending status, and completes CAPSS intake process.
17. Provides a response to the reporter regarding the acceptance of the report and documents whether a summarized outcome of the investigation/assessment is requested as authorized in §20-7-690.
18. PENDS a referral only if it is clear that an involved and personally knowledgeable professional (child's school teacher, doctor, therapist, or other) has information that directly impacts on the intake decision and the referral does not already meet intake screening criteria at this point in time without that information. A referral may be pended for a maximum of 24 hours if the information is critical to the decision and can be obtained in that time. If the information will not be available in 24 hours, a decision on the referral must be made immediately and not pended. If information at intake suggests imminent risk of harm, Pending can not be used. If the referral **is placed in pending status**:
 - a. In consultation with supervisor, documents the rationale for pending the referral. (Note: The documentation must specify information necessary for the referral to be accepted for investigation/assessment). Discusses with the reporter the decision to pend and helps the reporter to understand the decision.
 - b. Makes necessary contact with other professionals only, such as law enforcement, DJJ, school, DHEC, etc., in an effort to obtain information noted in the rationale for pending. (Note: Only professionals may be used as collateral contacts for this purpose as contact with the family initiates an investigation).
 - c. Uses Pending when referral must be transferred immediately because the child is a resident of and is located in another county. **(See Section 713, Transferring A Referral to Another County at Intake).**
19. If the information is sufficient for investigation/assessment but the role and responsibility of the alleged perpetrator is unclear, uses any information available from law enforcement who are responding to the incident to make that determination. If that information is not available within 24 hours of receipt of the referral, ensures that an investigation/assessment is initiated and the role of the alleged perpetrator determined through a CPS investigation/assessment. **(Reference SC Code of Laws, Section 20-7-490).**
20. Within 24 hours of receipt of the referral, ensures that an intake decision is made and appropriate action taken. A referral can be pended no more than 24 hours before an agency intake decision must be made.

Referrals Accepted for Investigation/Assessment

Supervisor/Designee

21. Reviews referrals and signs off on the intake decision, ensures that decisions are made timely and documentation into CAPSS completed by the end of the next working day after the decision to accept referral for investigation.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

22. Assigns the referral for investigation, reviews the allegations with assigned worker to determine the level of intervention necessary for child safety and to maximize worker safety. This may include a decision to request assistance from law enforcement or to have another caseworker accompany the assigned caseworker on the initial contact (**See Section 710.01.19, Worker Safety**).
23. Ensures that Social Service Worker begins the investigation/assessment within the appropriate time frame but no later than 24 hours after acceptance of the report.

Social Service Worker

24. Consults with the supervisor regarding the manner of the response. If a CPS investigation is warranted, considers the urgency and manner of the most appropriate response. If report is believed to be a situation of present and immediate danger, initiates contact within 2 hours of accepting report. All other situations must be initiated in no more than 24 hours based upon the danger threats and guidance by supervisor. (**See Section 710.01, Intake Process**)
25. Documents action in automated system by the end of the next working day after the decision to accept the referral as a report for investigation.
26. Makes referrals to local law enforcement within 24 hours of receipt of a report of sexual abuse as defined by statute and per procedures outlined in Local DSS/Law Enforcement Protocol.

Note: Report typology may be other than sexual abuse but involve some type of sexual activity. For example, report may be considering parents' actions under Lack of Supervision due to the victimization of a younger child by an older child. Such situations are to be referred to law enforcement for consideration of joint investigations/assessment. (**Reference DSS/Law Enforcement Protocol**).
27. Notifies the mandated reporter of the intake decision to investigate and of any other referrals made.
28. Notifies a non-mandated reporter, if requested.
29. Uses information from Unfounded Category IV referrals in assessing risk and safety to children if other calls are received concerning the child, family, or subject of the report.
30. Communicates with Family Independence staff using the DSS Form 1600 when an individual listed on the report is also listed on the CHIPS system as a client of the Family Independence and/or Food Stamp (FI/FS) Program.
31. Obtains and shares information with the FI/FS worker as needed.
32. Communicates with other departments who may have information about the family including but not limited to the South Carolina Department of Juvenile Justice (DJJ) when information suggests that a sibling is incarcerated to obtain information known to DJJ about the family.

Referrals Not Accepted For CPS Investigation/Assessment

Social Service Worker

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

33. Documents the rationale for not accepting the referral in the Intake dictation and on the intake screen on the automated system and codes the intake decision 'Unfounded Category IV'. The information is maintained on the system for not less than five years.

Supervisor/Designee

34. Within 24 hours of receipt of the referral, reviews and if in agreement, approves screening out referral.
NOTE: Designee cannot be the intake worker who took referral. The purpose of this procedure is to ensure a second party review.

35. Documents the time of receipt of the referral and the time of approval to screen out the referral in CAPSS by the end of the next working day after intake decision made.

Social Service Worker/Supervisor

36. Notifies the mandated reporter of the intake decision to not investigate and of any other referrals made.
37. Makes necessary contact with other professionals (DJJ, law enforcement, school and DHEC) when the information suggest that they provide services to the family.

CPS or PQA Asst. Director/Designee

38. As necessary for auditing and statistical purposes, reviews screened out referrals (Unfounded Category IV) on the automated system.

CPS Technical Assistance Staff

39. On a monthly basis, checks automated system for information on CPS investigations involving third trimester fetus on all (accepted, screened, pending) previous month's activity for oversight and statistical analysis.

710.01 Intake Process

Intake is the first step in the Child Protective Services casework process. It is the point at which referrals are received concerning children who are suspected of being abused or neglected. Referrals become reports after CPS intake screening criteria is applied to the information received and the decision is made to initiate a CPS investigation. At the point the decision is made to accept a CPS report, the agency has 24 hours to initiate an investigation.

CPS Intake requires that workers develop specific skills to enable them to assist the reporter in giving and obtaining the information needed to make decisions regarding the appropriateness of the referral. The intake process requires highly skilled and professional staff as this is the first point where a child's safety is assessed and critical decisions must be made at the intake desk. This is also the initial point of contact for

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

the professional community and the general public with the agency and it is important to communicate a positive and competent demeanor.

Sufficient information must be gathered at intake to enable the Child Protective Services worker to:

1. Identify and locate the child or children, the parent or caretaker;
2. Determine if the referral is appropriate for Child Protective Services or if a referral to another service or entity is necessary to respond to the concern of the caller (for example: Law enforcement, community service, etc.);
3. Assess the seriousness of the situation and consider the urgency for response; and
4. Understand the relationship, roles, actions and motives of the reporter.

The Child Protective Services worker should assist the reporter in making their allegations, whether they are making a third party, anonymous or self-referral report by:

1. Explaining the goal of Child Protective Services, which is to promote safety of children and help families to identify ways to ensure that their children are safe;
2. Explaining the importance of reporting to the safety of children and encouraging the reporter to provide as much information as they know;
3. Responding to the fears and concerns of the reporter and gathering enough information to determine if the reporter would be in danger as a result of making the report; and
4. Discussing confidentiality and being honest as to how a reporter's identity might be revealed despite the fact that the law protects, and the agency attempts to safeguard, the reporter's identity.

The Child Protective Services worker must also check agency records to determine if the department has been involved with the reported family or children in any of its programs. This information could help the worker to physically locate a family, to identify a potential danger to the worker by aggressive family members or to establish a history of other agency contacts. Intake may involve crisis situations that require the Child Protective Services worker to:

1. Calm the reporter;
2. Assess the precipitating factors; and
3. Determine an appropriate response based on the needs of the child and family being reported.

710.01.01 Intake System

As required by law, the Department of Social Services must initiate investigations of all reports within 24 hours. The 24 hour clock starts at the moment that the agency accepts the referral as a report for investigation. The intake worker should document the date and time that the intake process begins as well as the date and time the intake is accepted for investigation for quality control and workload analysis. State law gives up to 24 hours to initiate an investigation but agency policy establishes shorter timelines for responses to immediate danger situations based on the information received at intake. Each county must establish a 24 hour a day system for receiving allegations. Therefore, it is necessary to establish a structured intake system to assure coverage in each county. The system must:

1. Encourage reporting by any person who wishes to make a referral; and
2. Function in such a way that screening is performed by staff certified through the agency's training program for Child Protective Services. The South Carolina Code of Laws requires that the Child Protective

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Services Unit be staffed with workers trained in the area of child abuse and neglect. Accordingly, the Agency requires that only staff who have completed the Child Protective Services Certification Program will be assigned intake responsibilities. **Completion of the Certification Program is defined as having attended all required components of the mandatory agency CPS training program and passed required written examinations with a score of 75% or above.**

County Directors are required to take the appropriate measures to insure coverage by qualified staff when circumstances such as illness, leave or termination of employment jeopardize compliance. In emergencies, consideration should be given to the use of county staff across county lines. Minimum coverage requires a certified Child Protective Services worker and a certified backup Child Protective Services worker or supervisor to be on call during and after office hours.

There must be a systematic way to inform all appropriate organizations, agencies and individuals on a regular basis about Child Protective Services workers on duty and how to reach them (duty roster), **(See Section 20-7-650, S. C. Code of Laws).**

710.01.02 Non-Office Hour Referrals

Because children at risk come into contact with law enforcement, hospitals and clinics during non-office hours, it is critical that these agencies be informed about how to collaborate with Child Protective Services during these circumstances.

Each county should clarify with these agencies the intake process such as type of information needed by Child Protective Services, the format for Child Protective Services intake, how to contact the worker on call, procedures to be used if the worker is unavailable, the sharing of information and follow-up. Any training provided for mandated reporters or the general public should include this type of information.

710.01.03 Referrals From the General Public

It is the responsibility of each County Director to see that adequate information on reporting child abuse and neglect is disseminated locally to the public through any sources available such as radio, television and newspapers.

710.01.04 Written Referrals

When the State Department of Social Services receives a written request from other agencies or individuals, including written requests initiated out-of-state, the State Department of Social Services must verbally communicate the referral to the appropriate county office and must immediately forward the written document to the county offices. The county department must then initiate the investigation within 24 hours of receipt of the verbal communication from the State Department of Social Services. Similarly, when the county directly receives written reports from any source, an appropriate investigation must be initiated within 24 hours of receipt of that report by the county department.

710.01.05 Intake By Law Enforcement

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Reports can be made to DSS or to local law enforcement as authorized under SC Code of Laws Ann., Section 20-7-510. Law enforcement agencies should notify the county Child Protective Service Unit of its response to a report as soon as possible.

Clearly defined procedures should exist between the local Child Protective Services and law enforcement agencies to assure the rapid and accurate transfer of this and any other information. These procedures should be specified in the local LE/DSS Protocol required under SC Code of Laws Section 20-7-650.

710.01.06 Publicity

Since each county department has responsibility for establishing its own intake system, each county must assume primary responsibility for assuring that the professional community and general public are exposed on a regular basis to information that encourages and facilitates making referrals. This information should include the procedures for making a referral during and after working hours, incorporating the specific names and telephone numbers of agencies or individuals, when appropriate, to contact. When possible, this should include general information about child abuse and neglect and the services offered by the department.

Publicity can be obtained through the use of the local media resources and meetings or workshops for information dissemination.

The State Department of Social Services also assumes responsibility for public education and training for mandated reporters by presentations to the public, child abuse and neglect publications and contracts with other entities to provide specific training.

710.01.07 Intake Activities

Intake is the first step in the casework process. It involves:

1. Receiving the referral;
2. Making collateral contacts when appropriate;
3. Exploring the appropriateness of the referral;
4. Deciding to commit the department to the referral as a report of child abuse and neglect, deciding the urgency of the response (danger level) and the manner of the response as well as who will respond; and
5. Documenting the report in the automated case record (CAPSS).

The intake interviewing protocol involves three stages.

1. The Opening Phase:
 - Complete necessary introductions of the reporter, the agency, you as the intake worker, and your purpose.
 - Allow the reporter to share his reason for calling.
 - Referral sources close to the family will express a variety of emotions during this phase of which you must be aware and respond appropriately.
 - Begin to assist the reporter to focus on his/her concerns.
 - Begin a process of assessing the referral source.
2. The Examination Phase:

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- Inform the reporter that you will be asking a series of questions so that you can better understand the family's situation and the needs of the children.
- Gain a thorough understanding of the factors that may contribute to circumstances or conditions which would reasonably result in abuse or neglect, or a significant risk of harm.
- Seek detailed information that has not been provided up to this point.

3. The Closing Phase:

- Insure that all basic information has been collected from the reporter.
- Seek information from the reporter regarding his opinion on what he believes needs to happen at this time.
- Assure the reporter of the importance of his call.
- Explain the decision making process that involves consultation with the supervisor and applying intake standards and urgency criteria.

710.01.08 Processing the Initial Report

Upon receipt of an initial referral, the worker should obtain and record as much as possible of the following information regarding the allegations:

1. Full name, age, date of birth, address, telephone number, religion of child (if this appears to have relevance to the safety of the child or worker);
2. Full names, ages, address, telephone numbers, religion of parents (if this appears to have relevance to the safety of the child or worker);
3. Current whereabouts of child;
4. Current whereabouts of and how parents can be contacted;
5. As complete details as possible of the alleged occurrence;
6. Complete details of other incidents or suspicions of child abuse and neglect;
7. A medical examination and documentation of the results;
8. Names, ages and condition of siblings at home;
9. Name, address, telephone number of other possible witnesses or persons having relevant information about the child/family (i.e. school, public health, social services agencies, etc.);
10. Name of family doctor;
11. Details of other agencies knowledgeable about family;
12. A record of police notification;
13. Name of school, nursery, day care center which child attends;
14. Attempt to get name, address, phone number of the reporter and the relationship to the family reported;
15. Some assessment as to the motivation of the person reporting; and
16. Previous address or location of the family.

The Child Protective Services worker at intake should complete the Child Welfare Services Intake on CAPSS that is designed to insure that the above information is captured.

710.01.09 Decisions Made at Intake

The decision must be made as to whether or not the referral will be accepted for investigation. However, referrals may be received which are not actual reports of child abuse and neglect as defined in the Child Protection Act. Through careful information gathering and deliberation, a determination must be made as to whether the allegations contained in the referral meet the criteria established in state law. The Child

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Protective Services supervisor is to review and approve all referrals that are not taken for investigation or screened out. At any time when the intake worker is in doubt about whether the referral constitutes a report, the supervisor should be consulted.

Section 20-7-490, S. C. Code of Laws, defines a person responsible for a child as well as the maltreatment typologies (See Section 750, SC Code of Laws). These definitions provide the basis for determining if the Department of Social Services should intervene in a specific situation. If it is unclear at intake whether the alleged perpetrator is truly a person responsible for the child, and that person has some ongoing relationship with the child (familial or by mutual consent such as housemates or other), the Department of Social Services should err on the side of the child and investigate, settling the matter through the investigation.

710.01.10 Assessing Reporter Motivation

Child Protective Services workers should attempt to determine the veracity and credibility of the reporter as an important step in validating the report. The worker may attempt to do this by:

1. Having reporters provide their name, address and phone numbers. (This does not preclude the acceptance of anonymous reports);
2. Determining the reporter's relationship to the victim and family;
3. Identifying whether the reporter knows of previous maltreatment and why he/she is reporting now;
4. Discovering if the reporter has anything to gain from reporting or from the report being validated;
5. Determining how well the reporter knows the family;
6. Determining if the referring agency is making an inappropriate referral;
7. Checking agency records on the family being reported to see if the reporter has made previous reports that have been invalid. If so, ask the reporter if he/she is willing to meet with the intake worker;
8. Determining if the reporter is inebriated, angry or displaying behavior which would cause question as to the accuracy of the report;
9. Determining the reporter's source of information regarding the alleged case such as direct observation. It is important to ascertain whether the reporter's knowledge is first hand, personal knowledge or from other sources for credibility purposes;
10. Assessing the level of knowledge the reporter has about the alleged case adds to the credibility of the reporter and the report;
11. Determining the reporter's willingness to accept responsibility for the referral; this is perhaps the most effective measure of credibility; and
12. Identifying whether the reporter can provide collateral contacts.

Reports received from apparently highly emotional reporters should not be predetermined to be invalid by the intake worker. Furthermore, staff must perceive the reporter in the general context of what has been reported. Special analysis should occur in referrals made by non-custodial parents alleging maltreatment to consider if the motives of the reporter might be influenced by self interest and what is the impact of that self interest on the child's safety and well being. The fact that a reporter's motives or situation are suspect does not mean that a child has not been harmed and all due consideration must be given to the referral.

710.01.11 Anonymous Reports

Anonymous reports are to be processed in the same fashion as those in which the reporter is known with due regard to consideration of the motivation of the reporter (See Assessing Reporter Motivation).

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

710.01.12 Screening Referrals

Intake should include an analysis of the content of the referral to determine appropriateness for Child Protective Services intervention.

All referrals should be screened in order to determine whether or not there are allegations that meet the statutory definitions of child abuse and neglect.

Intake Screening Criteria

1. The person alleged to have been maltreated must be a person under the age of 18 years.
2. The person alleged to have injured the child must be a parent, guardian, caretaker or other person defined in SC Code of Laws Section 20-7-490©.
3. There must be an allegation or a description of actual harm that has occurred to a child or is concurrently occurring with the report or significant risk of harm in the immediate or foreseeable future to the child as defined by Section 20-7-490.
4. There must be reasonable means of locating the child and family.

If the screening criteria are met, the referral is accepted for investigation and the reporter notified of this decision. In the majority of referrals, this decision can happen at the completion of the phone call and reporter told the decision at that time. When the phone is hung up and the decision made to accept, the 24-hour clock starts at that moment.

At times, the reporter may not have enough information to determine immediately if the referral should be taken for investigation and a professional collateral must be contacted. For example, the neighbor thinks the child is not going to school and is not being fed but states that the school can give more information on this concern. Generally, that contact can be made immediately and the intake decision made quickly. In rare situations when the collateral is not readily available but can reasonably be expected within the next 24 hours and the intake decision cannot be made without additional information and the situation is not one of immediate danger, the referral can be placed in a pended status while the call is made for further information. The reporter must be notified of this need for collateral information and when the decision will be made. A referral can be pended for no more than 24 hours and for the express purpose of clarifying the referral. A referral can also be pended when it is being transferred to another county for an intake decision. The intake worker should determine the relationship of the reporter to the family and whether the reporter with a responsibility to treat or supervise the child wants feedback as to the outcome of the investigation and make those arrangements. (SC Code of Laws Section 20-7-690(F))

If the allegations do not meet the screening criteria, the decision is made to not accept the referral for investigation, Unfounded Category IV under state law. This decision must be staffed with and supported by the supervisor. The reporter should be given an explanation as to why an investigation will not be conducted as well as any other information that may be necessary, to include but not limited to, referrals to other entities which are more appropriate to assist the caller and/or family. The intake worker should be able to clearly articulate the agency's rationale for the intake decision.

710.01.13 Urgency of Response

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

The decision for the urgency of the CPS response is based on the concerns shared at intake that suggest immediate danger to the child's safety. Immediate danger is obvious, clearly noted, and presently active threats to the child's safety based on the parent's mental, emotional or physical capacity as well as the child's vulnerability and current condition. Following are some of the questions that will guide the Child Protective Services intake interview and determination of urgency:

1. Is it happening NOW? How severely is the child harmed? The more severe the harm to the child, the more prompt the response should be.
2. Does the child need medical attention?
3. What is the age of the child? Generally one can assume that the younger the child, the greater the risk is to the child.
4. Has there been any previous abuse or neglect? If a pattern can be established, it may indicate a greater risk to the child.
5. Is parental behavior a danger to the child? For example: Does the parent abuse alcohol? Is the parent psychotic, extremely angry, volatile, or is the parent's behavior bizarre in any way.
6. Is the child alone or abandoned? The age of the child and the length of time the child has been alone, the time of day, and the proximity of other people must be considered when determining the immediacy of the report.
7. Is the situation chronic or acute? An acute situation indicates the need for a more immediate response.
8. Is the child currently safe because of hospitalization or some other secure circumstances?

All referrals should be screened to determine whether or not an emergency exists. All referrals of an emergency nature must be investigated immediately. Supervisors should be consulted.

Based on information gathered, determine if the report alleges a child is in immediate danger, foreseeable danger or at substantial risk (circumstances exist that make harm likely in a relatively short time).

To determine Immediate Danger that requires a 2-hour response time by the agency, consider which of the following immediate danger threats are known to exist in this report.

Maltreatment

1. Maltreating now, happening concurrent with the report and of a serious nature. The maltreatment may be physical, sexual, or verbal. Physical neglect may be chronic but not necessarily meet the criterion of present danger.
2. Multiple Injuries on different planes or parts of the body or different kinds of injuries such as burns and bruises.
3. Injuries to head and face - cuts, bruises, abrasions, swelling alleged to have occurred as a result of parental treatment of the child.
4. Serious injury would include bone breaks, severe or deep lacerations, burns, malnutrition, other.
5. The report supports that this is a premeditated injury, deliberate, preconceived plan for which the parent is responsible.
6. Several victims are currently being maltreated.
7. Previous history of child abuse or neglect reports raised the level of concern.
8. Life threatening living arrangements appear to be present that suggest an immediate threat to children due to exposed wiring, fire hazards, guns/knives available, etc.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

9. The maltreatment suggests bizarre cruelty is being used such as torture, locking up children, believing devil possessed, etc.
10. There is immediate access by the maltreater to the child, social isolation from others, no other protective adult available to the child.

CHILD

1. Parent is actively expressing a view of child that is extreme and bizarre, such as saying child is demon possessed.
2. A young child is not supervised or alone right now.
3. The child is 0 – 6 years of age, and when considered in relationship to other danger loaded influences such as alone and immediacy makes this an immediate concern.
4. Child is unable to protect self, particularly for very young children but also for children with developmental delays.
5. Child is obviously fearful/anxious with specific concerns to justify the fear, not generalized fear or anxiety.
6. Child needs immediate and significant medical attentions, the absence of which would seriously affect the child's health and well-being.
7. Spouse abuse is currently and actively occurring in the home, or child maltreatment is happening concurrently with the domestic violence.
8. Taken in light of other immediate danger threats, a concern that the family will flee heightens the concern for an emergency response.
9. Family hides child either through physically restraining the child or preventing access to the child.

There may be information about volatility of the situation that suggests that the circumstances could change quickly increasing the immediate concern for the child or that there is limited access to needed services that should be assessed as part of the immediate danger assessment for urgency of response.

FORESEEABLE DANGER and SUBSTANTIAL RISK

Foreseeable danger is defined as those insidious and underlying dangerous family conditions that are determined to be out of control and therefore pose a threat to child safety. While the threat to safety may not be presently active at the time of the report, there is reasonable, justifiable, and very specific information contained with the report to suggest that "dangerous family conditions" pose a threat to the child's safety in the near future, defined as tomorrow to over the course of the next several days. Substantial Risk situations will have risk factors but with the impact in the next few weeks rather than few days. Consider the following issues in determining a response time of within 24 hours.

These are situations that are less serious and less immediate than those described in the Immediate Danger section and contact should be initiated in no more than 24 hours. More rapid response may be needed based on the facts and should be determined in consultation with supervisor.

1. The report indicates moderate maltreatment such as medical care not sought; inadequate shelter; lack of supervision; significant bruising to lower extremities; fondling, exhibitionism, or masturbation.
2. There are specific indications in the report that one or both of the parents are violent, impulsive, and aggressive and the children are present.
3. It appears reasonable to assume that frequently there is not a responsible adult in the home to perform parental duties.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

4. There is specific information that supports that one or both parents may not/cannot control their behavior (substance abuse, mental health) and this affects their ability to parent.
5. The child appears to be perceived in extremely negative terms by the parents.
6. The family does not/will not have resource to meet basic needs.
7. The child has exceptional needs that the parents appear not to be able to meet.
8. The child is viewed as responsible for the parents' problems.
9. There appears to be evidence that the parent is not remorseful and/or justifies his/her behavior.
10. The report indicates physical maltreatment but no serious or moderate injury. There may be chronic minor neglect but not an immediate threat to safety.
11. Inconsistency in the quality of supervision and /or child care but not constituting an immediate danger.
12. Some indications of occasional scapegoating, condemnation or rejection, emotional distancing.
13. Other significant negative conditions in the family that have existed for a period of time but have not seriously impacted the child yet, such as use of drugs or alcohol which is episodic and less severe.
14. Domestic violence that has not immediately involved the child to date.

710.01.14 Intake Considerations for CPS Involving Drug Addicted and Drug Exposed Infants and Unborn Children

The guidelines for child protective services (CPS) intakes regarding substance addicted and substance exposed infants are based upon the following principles:

1. The decision of the State to coercively intervene into the family life is based upon an assessment of risk to the child based upon the interaction of factors relating to the child's presenting condition and needs, the parents' capacity to care for and protect the child, and other environmental factors. Therefore, CPS involvement is based upon the likelihood of future endangerment rather than prenatal drug abuse **alone**. Use or abuse of drugs by parents is acknowledged to increase the concerns for immediate safety and future risk of maltreatment for a child.
2. The SC Supreme Court ruling, *Whitner v. South Carolina*, had the effect of changing the definition of a child to include the viable fetus and extends the responsibility and authority of DSS to intervene in situations involving the viable fetus in the third trimester when the parent's prenatal behavior places the fetus at high risk. This primarily relates to the use of illegal substances in the third trimester but may also involve other dangerous activities.
3. The removal of children will be based upon an assessment of immediate safety concerns as well as future risk issues, rather than a single indicator/behavior on the part of a parent.

710.01.15 Criteria for Acceptance of Referrals on Drug Addicted/Drug Exposed Children and the Viable Fetus

1. Intakes will be accepted on children following birth or on the viable fetus defined as [24](#) weeks gestation.
2. Reasonable cause to believe a child is at risk of being harmed will include, but not limited to:
 - a. A child with a positive drug screen, as documented through medical evaluation (significant Risk of Harm for Neglect);
 - b. A child, who in the absence of a positive drug screen, exhibits symptoms associated with pediatric narcotic withdrawal (Significant Risk of Harm for Neglect);

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- c. A child with medical conditions associated with fetal drug exposure (i.e. feeding difficulties, prematurity, neurological difficulties) coupled with evidence of drug use by the mother during pregnancy (Substantial Risk of Neglect);
- d. Admission of use or direct observation by a reliable source of the use of an illegal drug by the mother during the third trimester. (Significant Risk of Harm for Physical Neglect)
 - Indicators of the use of controlled substance during pregnancy in the third trimester include:
 - (1) direct observation of the use of controlled or illegal substances by the mother during the third trimester of pregnancy by a reliable source, i.e. relative, household member; or
 - (2) admission by the mother of the use of controlled or illegal substances during the third trimester of pregnancy; or
 - (3) a positive maternal drug screen during the third trimester of pregnancy or in the post-partum period or while nursing the child.
- e. A positive drug screen of the mother at birth regardless of the condition of the child (Significant Risk of Harm for Physical Neglect).
- f. The use of or acknowledgment of drugs/alcohol during pregnancy and/or involvement of a caretaker in criminal activity involving controlled substances are not in and of themselves sufficient reason for accepting a report for CPS investigation. Because of the common association of substance abuse with confirmed abuse and neglect, the intake must be thorough regarding other areas of parental functioning, the needs of individual child(ren), the impact of the parental behavior on the child's immediate safety and future likelihood of harm, and the environment.

Examples of high risk factors, which coupled with the use of drugs during pregnancy, collectively result in accepting a report for CPS investigation would include:

- (1) a child with special medical problems who requires more than routine medical monitoring or special equipment;
- (2) no prenatal care or inconsistent prenatal care;
- (3) prior CPS history;
- (4) no preparation for the child's arrival;
- (5) a home environment which presents safety/health hazards;
- (6) evidence of financial instability;
- (7) limited or no family support;
- (8) parenting skills demonstrated in the health care setting suggest a lack of response to the child's needs (little or no response to infants crying, poor eye contact, resistance to or difficulties in providing physical care);
- (9) caretakers with problems of limited physical, intellectual and/or other barriers to parenting abilities;
- (10) high risk substance abuse activity (multiple weekly usage, poly-drug usage, etc.);
- (11) spouse or parent substitute is involved with or will not limit drug activity.

Intake staff should request that health care professionals reporting Items 2(a-d) provide all available social information as a means of aiding the assessment process. See 2(d) for examples of high risk factors.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

3. When there are other children in the family, reliable reports of drug usage during pregnancy may result in CPS intervention when the presence of other risk factors result in harm or substantial risk of harm to the other children (Substantial Risk of Harm for Physical Neglect or Physical Neglect).

710.01.16 Medical Neglect of Disabled Infants

The Department of Social Services is mandated by **Public Law 98-457** (the amendments of the Child Abuse and Neglect Treatment Act of 1984) and authorized under **South Carolina Code of Laws, §20-7-670** to investigate all reported cases of medical neglect of disabled infants.

In meeting the mandate of the law, the following definitions shall apply:

1. **Medical Neglect of a Disabled Infant** - Federal regulations prohibit the withholding of nourishment and medically indicated treatment from disabled infants with life threatening conditions. The term "withholding of medically indicated treatment means the failure to respond to the infant's life threatening conditions by providing treatment including appropriate nutrition, hydration and medication, which in the treating physician's or physicians' reasonable medical judgment will be most effective in ameliorating or correcting all such conditions. Some exceptions for requiring treatment include:

- a. Infants who are chronically and irreversibly comatose; or
- b. The provision of such treatment would merely prolong dying; or
- c. The provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself could be inhumane.

2. **Infant** - An child less than one year of age; and children older than one year of age who have been continuously hospitalized, who were born extremely prematurely, or who have long-term disabilities.
NOTE: The reference to one year of age does not imply that treatment should be changed or discontinued when an infant reaches one year of age or to affect or limit proper standards of medical care for over one year of age.

710.01.17 Recurrent Reports

It is not unusual to receive more than one report about a child in need of or actually receiving Child Protective Services. There are recurrent referrals that should be screened to determine whether or not any action is presently required. The term recurrent referrals means a series of similar referrals involving an active case on a family which was the subject of a recent investigation.

While all of these referrals may involve genuine concern on the part of the reporters, also they may represent an attempt to pressure the agency into taking certain actions, such as removal or placement with a specific relative.

When a series of referrals is received involving a family that was the subject of a recent investigation, they should be screened in comparison with the most recent case action. If a recent home visit was made and the information in the referral does not allege a different situation, then it may not be necessary to conduct an additional investigation.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

If a family is receiving child protective services, it can be expected that referrals may continue to be received until the family's conditions are alleviated. Referrals that do not contain new allegations should not initiate a new investigation. The family's problem can be dealt with as a part of the service plan. However, additional referrals that contain new allegations should be investigated as provided by law and policy.

In all recurrent referrals, documentation should identify the decision whether to investigate or not, the rationale for the decision and the action the department is taking. Caution is in order. Some families may be quite unstable and each referral should be investigated. If there are any doubts, they should be resolved in favor of the child and the referral investigated.

710.01.18 Arranging the Initial Contact

The legal requirement to initiate a Child Protective Services investigation within 24 hours tends to limit the variation in arranging for the initial contact. The Child Protective Service worker may choose to make an appointment by telephone in those cases where no apparent reason exists to suggest that the parents will leave the jurisdiction nor is there evidence of immediate danger to the child. This will be possible in many reports and workers are encouraged to do so as this supports a family focused approach to CPS intervention. For example, educational neglect reports or situations where the alleged perpetrator does not have access to the child(ren) named in the report.

However, in emergency situations of immediate danger, it is not reasonable to schedule appointments and immediate action is required. Law enforcement may need to accompany the worker on this type of initial contact where the possibility of removal is great.

The initial contact of the investigation should proceed with consideration being given to variations in client response. Child Protective Services workers should:

1. Introduce themselves straight forwardly;
2. Communicate in a non-accusatory manner;
3. State the purpose of the contact early in the interview;
4. Be firm about their intent to complete the investigation;
5. Share the report in detail with obvious consideration for protecting the reporter's identity;
6. Observe and investigate any other maltreatment which may not have been included in the initial report received by the department.

At the close of the initial contact interview, there should be a decrease in the client's emotional reaction. This should facilitate obtaining the information needed to make an initial judgment and decision regarding the child's safety and set the stage for future contacts required for continuing assessment, treatment planning and service delivery.

710.01.19 Worker Safety

Worker safety is very important to consider as you prepare for the initial contact. An unsafe worker is not likely to be able to ensure the safety of a child in the home.

1. Always be aware of your surroundings and attentive to anything unusual in the neighborhood or home.
2. Ask others about the neighborhood. Check agency records or with LE to get this information.
3. Make sure that others (supervisor, coworkers) know where you are.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

4. Be prepared and comfortable with leaving a situation if you find it necessary.
5. Take law enforcement or coworker with you if the report information suggests a dangerous situation.

A dangerous situation may be one where:

1. There is a serious allegation and immediate danger threat to the child.
2. There is previous history of law enforcement involvement, family violence or spouse abuse.
3. The report or LE records search notes violent or aggressive behavior of family members.
4. There are firearms/weapons noted in the report along with the belief that they are used in aggressive behavior towards others.
5. The family's geographical location is isolated or dangerous.
6. The family members belong to or identify with a "hate group" or other organization that advocates violence.
7. There have been multiple reports on this family.
8. The family has lived at the present address less than six months.
9. The initial contact would be made after regular working hours.

Use this information to guide the decision to ask law enforcement or a coworker to accompany you on the initial contact.

711 Screening of Recurrent Referrals

Revision Number: 03-01, Effective Date: 09/04/2003

Purpose: To outline the steps to be taken when two or more referrals are made on the same family, child, and/or subject of the report. **(Reference Section 710)**

Social Service Worker

1. **For active investigations/assessment or cases**, screens recurrent referrals to determine whether new allegations are contained that require a separate investigation, or if the information can be dealt with as part of the current investigation/assessment or service plan.

Note: New allegations are those incidents which were not previously reported and/or not investigated/assessed during the original investigation/assessment. An incident is a definite and separate occurrence or event. This may be the same typology or another.

- a. If the recurrent referral is consistent with the original report or does not allege a new incident, the information may be used to assist in the current investigation/assessment or in the delivery of treatment services. **(Reference Section 710, #12).**
- b. If the information is not an allegation of abuse or neglect but involves a concern or need, makes an appropriate referral for services. **(Reference Section 710, #12).**
- c. Documents action taken and information in **automated system**.

Social Service Worker

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

2. **For closed cases**, screens recurrent referrals to determine whether a new allegation is being made which requires an investigation. **Notes:**
 - a. New allegations are those incidents which were not previously reported or investigated/assessed during the original investigation/assessment, and/or not dealt with during the delivery of services prior to closure.
 - b. Information in a closed case may be used in a subsequent investigation/assessment or service delivery.
 - c. Closed indicated cases must be maintained for seven years from the date of closure at which time all identifying information must be destroyed (**Reference §20-7-680, S. C. Code of Laws**).
3. **For unfounded reports**, screens recurrent referrals to determine whether a new allegation is being made which requires an investigation/assessment.
 - a. New allegations are those incidents which were not previously reported and/or not investigated/assessed during the original investigation/assessment.
 - b. Information contained in unfounded cases must be retained for not less than five years and may be used by CPS or law enforcement in relation to child abuse investigations/assessments concerning the same victim child or the same subject and for purposes as from §20-7-510 (Section 3 of Bill) Category IV for assessing risk and safety if additional contacts are made concerning the child, the family, or the subject of the report and all unfoundeds for investigating/assessing allegations of abuse/neglect and other further defined in the statute (**Reference §20-7-650, S. C. Code of Laws**).

Social Service Worker

4. For all situations, consults with the supervisor or designee.

Social Service Supervisor

5. Documents the decision whether or not to investigate. **If yes**, completes the intake on automated system as appropriate.
6. Documents rationale for the decision and any other action the department is taking in automated system and updates screens as appropriate.
7. Reviews the decision to:
 - a. Accept the referral for a new investigation;
 - b. Not take the information for investigation/assessment; or
 - c. Place the referral in Pending status while additional information is gathered.
8. Follows the procedures outlined in **Sections 710, Intake, and 719, Child Protective Services Investigation**, if information constitutes a new report.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Social Service Worker

9. Follows procedure outlined in **Section 710, Intake**, if the referral is not accepted for investigation. (For active investigations or cases, see #1 of this section).
10. Follows procedures outlined in **Section 710**, if the information is placed in Pending status.
11. If this is a report on a previously unfounded report Category III, follow procedures outlined in Section 719.

712 **County of Jurisdiction/Legal Residence**
Revision Number: 08-02, Effective Date: 07/31/2008

Purpose: To clarify procedures involving jurisdictional issues for a child living in South Carolina or in other states. To be considered in conjunction with the procedures outlined in Section 710 and 719 and the DSS/Law Enforcement Protocol.

Social Service Worker (County of Intake)

1. If the alleged victim child and alleged perpetrator reside in county of intake, proceeds with investigation/assessment as outlined in **Section 719, Child Protective Services Investigation**.
2. If the alleged victim child resides in county of intake, with alleged perpetrator residing in another county:
 - a. Initiates an investigation as outlined in **Section 719, Child Protective Services Investigation; and**
 - b. In consultation with the supervisor, requests assistance from DSS office in alleged perpetrator's county of legal residence to assist with interviewing of alleged perpetrator and/or collateral contacts, if needed.
 - c. If appropriate, refers matter to law enforcement for necessary action and coordination.
3. If the alleged victim child(ren) resides in another county, with alleged perpetrator residing in county of intake, in consultation with supervisor, follows procedures to transfer report to county of child's legal residence. (**Reference Section 713, Transferring a Referral to Another County at Intake**).

Note: When jurisdiction is unclear and the victim is residing in the county of intake, the county of intake should act to provide safety. This procedure should never be a barrier to anyone making a valid report or acting to ensure the safety of a child.

Social Service Supervisor

4. Staffs information for appropriateness of decision.

Social Service Worker (County of Intake)

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

5. If the alleged victim child is a non-resident of South Carolina, but the child is in South Carolina at the time of the report, the department shall:
 - a. take emergency action as necessary to ensure child's safety;
 - b. conduct an investigation/assessment as outlined in **Section 719, Child Protective Services Investigation**;
 - c. Notify child's state of legal residence of the report and any subsequent investigative or treatment issues which may require follow-up.
6. If the alleged victim child is a non-resident of South Carolina, but was allegedly abused/neglected in South Carolina and is no longer in the state:
 - a. Notifies state of child's legal residence of allegation;
 - b. Provides assistance by interviewing the alleged perpetrator and/or collaterals, if requested;
 - c. Sends written information to state of child's legal residence;
 - d. Assists to make any necessary referrals to law enforcement.
 - e. Completes intake on automated system process and notes that referral was not taken as a CPS report but is an assist for the state of the child's residence and the referral made to that jurisdiction. Documents any assists in dictation.
 - f. If information received through law enforcement or DSS interviews supports by a preponderance of the evidence that the alleged perpetrator would be a threat to children in South Carolina, petitions family court for the purpose of placing name on Central Registry using the standards in §20-7-650(N).
7. Assesses for appropriate action, including Emergency Protective Custody, referrals involving families vacationing in or passing through South Carolina. Where follow-up is deemed necessary, the report should be coordinated with the family's state of legal residence. (**See Section 750, Reference Data - S. C. Code of Laws, §20-7-610**).
8. If the alleged victim child is a resident of South Carolina, but was allegedly abused/neglected outside of South Carolina by a non-resident of SC and is not in SC at the time the allegations are made:
 - a. Receives notice of the allegations from the state of child's location/site of alleged abuse or neglect. If allegations involve SC resident as perpetrator, initiates investigation per Section 719;
 - b. Provides assistance by interviewing collaterals that live in SC, as appropriate;
 - c. Sends written information to state of child's location;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- e. Completes intake on automated system and notes that referral was not taken as a CPS report but is an assist for the state of the child's location and the referral has been made to that jurisdiction. Documents casework activities in dictation.
 - f. Provides treatment services to child and family in SC as needed.
9. If the alleged victim child is a resident of South Carolina, but was allegedly abused/neglected outside of South Carolina by a non-resident of SC but has returned to SC at the time the allegations are made:
- a. Notifies state where alleged abuse occurred and assesses for safety concerns with child in SC;
 - b. Provides assistance by interviewing collaterals in SC to include child and caregiver in SC;
 - c. Sends written information to state where alleged abuse occurred;
 - e. Completes intake on automated system process and notes that referral was not taken as a CPS report but is an assist for the state of the child's residence and the referral was made to that jurisdiction. Documents casework activities in dictation.
 - f. Provides treatment services as needed to identified victim child and family in SC.
- .

713 Transferring a Referral at Intake to Another County

Revision Number: 03-01, Effective Date: 09/04/2003

Purpose: To provide procedures to guide the transfer of a referral when the alleged victim child named in the report lives in another county and to ensure a 24 hour response by the agency on all referrals.

Social Service Worker (Intake/Sending County)

1. Consults with supervisor regarding the decision to place the referral in Pending Transfer status.

Social Service Supervisor (Intake/Sending County)

2. Reviews and signs off on the decision to transfer the referral. Discusses with and guides the worker through the decision making process.

Social Service Supervisor

3. Ensures that all known information is completed on the intake screen on automated system prior to transfer.

Social Service Supervisor or Worker (Intake/Sending County)

4. Within thirty minutes of receipt of the referral and decision to place the referral in Pending Transfer status, contacts by telephone the county of residence to transfer the referral and any supporting information as

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

documented on [the intake](#). If unable to reach the receiving county and the referral is of an emergency nature, contacts immediately law enforcement in the county where child is located to request assistance with a child in need of protection. Consults with supervisor if unable to contact law enforcement.

Social Service Supervisor/Designee (Receiving County)

5. [Updates automated system](#) to accept and transfer case management responsibility. Sending county will continue to update [dictation](#) as appropriate.

Social Service Worker (Intake/Sending County)

6. Provides assistance by interviewing any parties located in the Intake County and immediately provides county of legal residence by phone any information pertinent to child's safety.
7. Documents on any interviews conducted with persons in Intake county or other assistance provided and notifies the county of child's legal residence that documentation completed.
8. Cooperates with county of child's legal residence as necessary and appropriate.
9. Logs information and referral hours in the [automated system](#).

Social Service Supervisor/Designee (Sending County)

10. Ensures that [automated system](#) is updated and that any information which must be sent in writing is sent to receiving county.

Social Service Supervisor/Designee (Receiving County)

11. Processes referral as outlined in **Section 710, Intake**, upon notification of intake information by phone and change of responsibility. (**See Section 750, Reference Data - §20-7-510, S.C. Code of Laws**).

Note: The time noted for receipt of the referral by the Intake county does not change during this transfer.

12. Logs investigative hours in the [automated system](#).

714 Transferring a Referral Still Under Investigation/ Assessment to Another County

Revision Number: 03-01, Effective Date: 09/04/2003

Purpose: To provide procedures to ensure that a prompt and thorough investigation/[assessment](#) is completed on a referral when a family moves to another county or is found to be legal residents of another county after the investigation/[assessment](#) has been initiated.

Social Service Worker (Intake/Sending County)

1. Receives information that the child or family has moved or were legal residents of another county.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

2. Verifies change of legal residence by parents' actions to:
 - a. change mailing address;
 - b. enroll child in school or day care using new address;
 - c. apply for economic assistance using new address; or
 - d. any other action which would indicate the new residence is not temporary.
3. Obtains as much information as possible regarding the location of the family.
4. Immediately contacts by telephone the new county of residence to transfer the investigation/assessment.

Social Service Worker (Receiving County)

5. In consultation with supervisor, initiates any emergency action necessary.

Social Service Supervisor (Intake/Sending County)

6. Reviews any written information to be sent and guides worker through the decision making process and signs off on decisions as appropriate.
7. Staffs information with the worker to ensure that pertinent and appropriate information has been gathered.

Social Service Worker (Intake/Sending County)

8. Documents the actions to transfer a case, case staffing and any other action completed.
9. Within two working days of transfer, completes documentation and updates [the automated system](#) as appropriate with all information gathered in Intake county.
10. Documents the referral as a "county transfer" with no case determination.
11. Provides consultation and/or assistance as requested by the new county of residence.
12. Participates in staffing with receiving county.

Social Service Supervisor (Intake/Sending County)

13. Reviews casework completed by worker.

Social Service Supervisor (Receiving County)

14. Reviews case information, assigns, investigation/assessment and changes worker assignment on data base after notification from sending county that referral or case information has been updated. Reviews any written information sent in paper file.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Social Service Worker (Receiving County)

15. Completes investigation/[assessment](#) as defined in **Section 719, Child Protective Services Investigation**.
16. Consults as needed with the sending/ intake county before the case determination is made and coordinates any staffings.
17. Updates data base to receiving county codes if data has been entered by sending/intake county.

715 Transferring an Indicated Case to Another County

Revision Number: 03-01, Effective Date: 09/04/2003

Purpose: To provide procedures to ensure that a family who moves to another county after a report has been indicated will receive appropriate services on a timely basis. To be completed in conjunction with the process outlined in the **Casework Management Manual, Section 150.05.01, Case Transfer/Case Staffing Procedure**.

Social Service Worker (Original County)

1. Verifies that the family has changed legal residence by:
 - a. having changed mailing address;
 - b. enrolling child in school or day care and using a new address;
 - c. applying for economic assistance using new address; or
 - d. any other action which would indicate the new residence is not temporary.
2. Consults with the supervisor regarding the change in the family's circumstances.
3. Notifies the new county by telephone of the change in residence and gives information regarding the level of risk and/or the need for immediate contact and other information needed for provision of services to the family.
4. Immediately sends information necessary to provide emergency services to the receiving county to include but not limited to any court orders or pending actions or law enforcement information which must be mailed or faxed. Follows up within two working days with the paper case file and notification that the [automated system](#) has been updated with case actions and is available for the new worker.
5. Staffs with DSS attorney and completes any pending court action as appropriate and requests change of jurisdiction/venue.
6. Cooperates with receiving county as needed for any subsequent legal action.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Social Service Supervisor (Original County)

7. Ensures that information is completed [on automated](#) system within two working days of telephone contact.

Social Service Supervisor (Receiving County)

8. Cooperates and assists original county with any pending court action.
9. Reviews and signs off on case if he/she concurs with action proposed by original county. If not in agreement, requests face-to-face or telephone conference staffing with original county to resolve concerns. Arranges any other staffings as deemed necessary.

Social Service Worker (Receiving County)

10. Determines, upon consultation with worker and supervisor of original county, the current level of risk and if the level of risk requires immediate contact with the family at the time of transfer.
11. Completes changes for case management number and county number on [automated system](#) upon receipt of case file. Documents in [automated system](#) all actions.

Social Service Supervisor (Original County)

12. Ensures that any case management changes which must be made by original county are made.

Social Service Supervisor (Receiving County)

13. Ensures that appropriate case management changes are made and updates [automated system](#) to assign the new worker and complete the transfer of responsibility.

716 Referrals on Department of Social Services Employees or Employees' Immediate Families

Revision Number: Section 834 was changed to clarify the procedures for making a referral for a runaway foster child to be listed on the National Center for Missing & Exploited Children's database. 06-03, Effective Date: 05/19/2006

Purpose: To facilitate investigations/assessment regarding agency employees or their immediate families. "Immediate family" is defined as parents, grandparents, children, siblings, aunts or uncles.

Note: In situations where other family or personal relationships exist, consult with program or management support staff as needed to insure an objective investigation/assessment.

Social Service Worker (Intake County)

1. Informs the Social Service Supervisor of a report [on an employee of the Department or on the employee's immediate family.](#)

Social Service Supervisor

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

2. Notifies County Director who will contact management support staff [for assistance as needed](#).

County Operations Management Support

3. [Consults with county director as needed to ensure that investigations on employees or employees' immediate family are conducted in an impartial manner. Counties will assist each other as necessary for these investigations.](#)

717 Interaction with Law Enforcement

Revision Number: 08-02, Effective Date: 07/31/2008

Purpose: To outline procedures to be followed when interacting with law enforcement pursuant to the **S. C. Code of Laws, specifically, but not limited to §20-7-490(3), 20-7-510, §20-7-610, §20-7-612, §20-7-650.**

County Director/Designee

1. Cooperates with law enforcement and the solicitor.
2. Develops written protocols with local law enforcement according to the requirements of state laws and Department procedures to include [but not limited to](#), provisions for sharing information about the reporter and for ensuring confidentiality of information about reporters of child abuse and neglect, [and for arranging law enforcement support for visits when safety of workers and children is a concern](#) . (See Section 750, Reference Data - S. C. Code of Laws, §20-7-510 and §20-7-610).

Note: A copy of the protocol should be given to all Social Service Workers and a copy should be sent to the State Office Division of Human Services, Child Protective Services Unit.

Social Service Worker

3. Notifies law enforcement of all suspected sexual abuse reports, to include the name of the reporter, as soon as possible but no later than 24 hours of receipt of the intake. (**Reference §20-7-650 and Local Law Enforcement/DSS Protocol**).
4. Determines, in coordination with law enforcement, if a joint investigation is needed and clarifies roles.
5. Notifies law enforcement within 24 hours of any and all reports, to include the name of the reporter, where the facts indicating abuse and neglect also appear to indicate a violation of criminal law and cooperates with law enforcement as required. (**Reference §20-7-650 and Local Law Enforcement/DSS Protocol**).
6. Notifies law enforcement of information received which suggest abuse and neglect by a person other than the parent, guardian or caretaker.
7. When notified by law enforcement of situations of emergency protective custody, follows procedures established in the written Local DSS/Law Enforcement Protocol and requirements of state statute (Reference Section 20-7-610, S. C. Code of Laws).

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

8. Maintains confidentiality of reporter when a report of child abuse and neglect is received by either DSS or law enforcement as defined by statute (Reference Section 20-7-690, S. C. Code of Laws).
9. Receives from law enforcement information about the reporter (to include name) when law enforcement refers a child abuse and neglect report to DSS.

718 Initiating Family Court Proceedings

Revision Number: 03-01, Effective Date: 09/04/2003

Purpose: To ensure that appropriate information regarding a family is brought to the attention of Family Court as required by the various statutes governing child protective services proceedings (**Reference §20-7-610, §20-7-652, §20-7-736, §20-7-738, S. C. Code of Laws**). Specific time frames for the following activities are governed by statute, court rules, DSS Legal Manual and procedures developed between the county DSS offices and their local DSS legal representative. This is a formal statement of roles and responsibilities related to taking a case to court. It does not take into account ongoing staffings and consultations about a case between Child Welfare staff and the DSS attorney.

Social Service Worker

1. Discusses the case with his/her supervisor before initiating court action.

Social Service Supervisor

2. Guides worker through the decision making process and approves or denies the initiation of court action.

Social Service Worker

3. Completes the DSS-3058, Court Information Sheet, or equivalent summary of necessary information. Attaches other relevant documentation (including but not limited to medical or psychological evaluations, other reports). Updates [automated system](#) screen as appropriate.
4. Contacts the DSS legal representative to discuss the case if approval is given by the supervisor. Furnishes the legal representative with the DSS-3058 or other summary and all relevant documentation.

DSS Local Legal Representative

5. Reviews all materials furnished by the worker and obtains other information from worker, case file or collateral contact, if needed.
6. Prepares the complaint and related summons, notices, petitions, orders of appointment, etc., for filing.
7. Files the complaint and related documents.
8. Ensures appointment of guardians ad litem and attorneys as necessary.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

9. Arranges service on all parties.
10. Schedules hearing.
11. Serves notice of the hearing on all parties.
12. Discusses case with the worker to prepare the worker and the case for presentation in court.
13. Contacts and prepares witnesses with the assistance of the worker.
14. Subpoenas witnesses.
15. Engages in other necessary case preparation.
16. Represents the agency in actual court proceedings.
17. Prepares court order if required by the judge.
18. Serves all parties and worker with the signed, filed court order.

NOTE: The above procedures represent a generic outline of responsibilities. Attorneys and their counties should develop specific written procedures for preparation of their cases for court. Local procedures may reallocate responsibilities somewhat; however, workers must not prepare court orders and must not prepare other pleadings or court documents without review and sign-off by the attorney.

Social Service Worker

19. Assists attorney with case preparation.
20. Testifies in court.
21. If the local legal representative refuses to initiate court action or refuses to otherwise present the agency's position in court, documents the refusal in the case record along with the reasons and notifies the supervisor.

Social Service Supervisor

22. Initiates conflict resolution procedure as provided in "Attorney-Client Relationship" section of the DSS Local Legal Services Chapter in the Administration Manual. **(Refer to the DSS Local Legal Services Chapter in the Administration Manual).**

719 Child Protective Services Investigation/Assessment
Revision Number: 08-02, Effective Date: 07/31/2008

Purpose: To outline procedures: (1) [to](#) identify safety concerns and ensure the immediate safety and safety throughout the investigation/assessment of all children in the household and under the control of the alleged perpetrator; (2) [to](#) make a determination whether or not the children were abused or neglected; (3) [to](#) make a

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

decision regarding future risk [of maltreatment; and \(4\) to plan for](#) agency service intervention. (See Section 750, §20-7-490, §20-7-610, §20-7-650, S. C. Code of Laws). [The order of the steps provided in the section may vary given the specifics of the report.](#)

NOTES: The agency's safety and risk assessment and service planning document is the Child and Family Assessment and Service Planning Tool (CFASP), DSS Form 30231. It has not yet been incorporated into CAPSS so documentation, unless otherwise specified, will be in the dictation sections.

For general instructions about using the automated system, see the CAPSS handbook.

For local operating and communications procedures between local Law Enforcement and DSS, refer to your county's DSS/Law Enforcement Protocol. This protocol is mandated by SC Code of Laws Ann., Section 20-7-610.

By mutual agreement between and among state agencies and entities involved in the investigation of and services to children exposed to the manufacture of methamphetamines, the South Carolina Drug Endangered Children Protocol (SCDEC) is to be incorporated as an addendum to the DSS/LE Protocol and its provisions used in conjunction with Section 719 when investigating such situations. The county protocols are to be reviewed and revised annually and a copy sent to the Office of Policy and Operations.

[While](#) the need for Emergency Protective Custody (EPC) must be assessed case-by-case, virtually every child exposed to the manufacture of methamphetamines will be in substantial and imminent danger [because of the significant health hazards and physical dangers presented by the manufacture of methamphetamines](#) and taken into EPC. Reference Chapter 8, Section 815.05 for specific procedures when children are removed by EPC as a result of exposure to manufacture of methamphetamines.

Social Service Worker

1. [Receives report as assigned, reviews intake information with supervisor as necessary to plan for initial contact, child safety, personal safety, and to prioritize activities of initial assessment according to needs of the specific report.](#)
2. [If not completed by intake,](#) notifies law enforcement as soon as possible but within 24 hours of receipt of all reports that include allegations of sexual abuse/assault, regardless of primary typology of the report. (See Section 750, S. C. Code of Laws [Ann.](#) - §20-7-650).
3. Makes contact with the Family Independence/Food Stamp (FI/FS) staff who might be involved with the family to gather pertinent information [to assist in locating the family or in planning for worker safety at initial contact.](#) Uses DSS Form 1600 to [document](#) communication with FI/FS staff.
4. Notifies Foster Care staff of an infant coming into the custody of DSS under the Safe Haven Act. Reference [Chapter 8](#), Section 812.01 for additional guidance.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

5. In consultation with supervisor, considers any barriers to communication known at intake, such as limited English proficiency, speech or hearing impairment. If such a situation exists, refers to Limited English Proficiency/Sensory Impairment (LEP/SI) Policy and Procedures in Directive Memo D02-39, dated September 23, 2002, and to county protocols for specific guidelines to assist in the initial and subsequent contacts with the family.
6. After consultation with supervisor, makes initial contact within two hours to start the investigation/assessment of reports where the information received at intake suggests an emergency with immediate present danger threats to children in order to assess for child safety and future risk and take steps to ensure the safety of all children in the household. Evaluates referral for concerns related to worker safety and plans initial contact so as to minimize personal danger, to include but not limited to, requesting assistance from law enforcement when contact after normal working hours is necessary. (Reference Section 710.01.18 and .19)

Note: Consults with law enforcement as outlined in the DSS/LE and Drug Endangered Children (DEC) Protocol when report suggests imminent danger in order to plan initial contact and subsequent investigative and placement action. (Reference County DSS/LE and DEC Protocol)
Follows DEC Protocol when the report involves children at a lab site where methamphetamines are being manufactured. (Reference DEC Protocol and Chapter 8, Section 815.05)

- a. Initiates an investigation in situations of an emergency (immediate danger) with personal contact with the involved children; or
 - b. Initiates the assessment by personal contact with the parent, guardian or other person responsible for the child's care and welfare when unable to see the child; for example, child hospitalized in another county; or
 - c. Documents attempted personal contact with the parent, guardian or other person responsible for the child's care and welfare which was unsuccessful, such as incorrect or incomplete directions, the family was not at home when an unannounced visit occurred, or efforts to coordinate the initial contact with law enforcement was unsuccessful. Documents specific attempts to locate family such as through the post office, utilities, school, Department of Corrections, Inmate Search at www.state.sc.us/scdc.
7. Initiates an assessment of all other reports as soon as possible but no later than 24 hours from receipt of the report. (Reference Section 710.01.13)
 8. Follows procedures outlined in Section 736: Death of a Child, when the investigation involves suspected abuse or neglect resulting in a child fatality.

Supervisor

9. Ensures that an initial contact is made by the assigned worker by meeting one of the standards in #6 of this section. If the initial contact was unsuccessful, the worker must continue to try to make personal contact as appropriate considering the allegations.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Note: If personal contact has not been made by the third day or within 72 hours of receipt of a report, a staffing with the supervisor is required to consider necessary actions to locate the child and/or the child's family.

Note: Do not leave notes for the family if they are not at home. Notes raise anxiety, can make the situation unstable and possibly increase concerns for child safety.

Social Service Worker

- 10.** Notifies the subject of the report that pursuant to §20-7-650, allegations of child maltreatment are being investigated and provides details but withholds identifying information on the reporter (**See Reference Data - S. C. Code of Laws, §20-7-690.**)
- 11.** As notice of the investigation, provides to and discusses with parents DSS Brochure 3034, Child Protective Services: A Guide for Parents, which provides information about the investigative assessment process, parents' rights and responsibilities, and possible court action as a result of this situation as required in **§20-7-650**. Answers any questions the parents may have about the process. (**See Section 750 - S. C. Code of Laws, §20-7-650**).

As mandated by federal law, also provides to the parents or other caregivers being investigated the handbook on parents' legal rights entitled Child Abuse, Child Neglect - What Parents Should Know If They Are Investigated, DSS Brochure 30230. This handbook provides parents with information on legal rights which includes but is not limited to: the CPS process; the reporter's protection and rights; the right to a lawyer; the right to be informed of court hearings; how to contact the clerk of court; the possibility of temporary placement of the children; the process for appointment of a guardian ad litem (GAL); and what information the parents need to share with the agency (Reference Child Abuse Prevention and Treatment Act).

- 12.** Identifies any present or impending danger threats at initial contact using guide in Part I: Assessment of Present Danger At Initial Contact. If protective action can control the threats so that the child can remain in the home, completes with the family prior to leaving the home on the initial contact a Safety Plan (DSS Form 3087) that identifies:
- a. the specific present or impending danger threats to be controlled,
 - b. the parents' willingness to cooperate,
 - c. description and confirmation of who can and will be the protector of the children,
 - d. description of the safety services that will control the threats, and
 - e. timeframes for action and oversight.

NOTE: The initial Safety Plan is to be used at this point to control immediate present danger safety threats (threats acting now, readily identifiable, serious and threaten immediate safety of child) if identified and must be completed before leaving the setting. If no present danger is identified, a Safety Plan is not required at initial contact. The Safety Plan developed at initial contact is immediate, short-term, and sufficient to provide responsible adult supervision and care to allow for the completion of the investigation. Its purpose is to suspend what is going on in the family long enough to complete an investigation.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Documents reasonable efforts to prevent removal by identifying the safety services or actions necessary for each child to live safely at home or with a relative or friend. Documents on the Safety Plan when a child is at imminent risk of removal by checking YES or NO.

Note: The Safety Plan at initial contact may include an alternative caregiver arrangement as described in SC Code of Laws Ann., Section 20-7-610 when a child can be diverted from foster care. See # 19 for steps to determine if the agency can agree to the alternative caregiver arrangement.

13. Documents the information regarding the initial contact including the date, time, individuals present, location of the meeting and the outcome in the CAPSS automated system within five working days.
14. Staffs assessment with supervisor no later than five working days after the report is received and as necessary throughout the investigation/assessment. If necessary, requests DSS attorney to prepare and submit an affidavit and petition for an inspection warrant if the investigation/assessment cannot be completed without it (See Section 750, S. C. Code of Laws, §20-7-650).
15. Gathers information necessary to analyze the current functioning of the children and family and determine if children are safe using the six fundamental assessment questions that inform the safety assessment decision.

1. What is the extent of maltreatment?

- The kind and specific description of the maltreatment
- The severity of the maltreatment
- The specifics of the events, injuries and conditions present.

2. What are the circumstances surrounding the child maltreatment?

- The caretakers' explanation of what happened, the injuries and related conditions including the child's condition.
- History and duration of the situation
- Co-existing factors and conditions such as substance abuse or mental health
- Contextual issues, such as use of instruments, acts of discipline, threats, caregiver intentions
- Caregiver acknowledgement and attitude about the maltreatment

3. How does the child function on a daily basis?

- Capacity for attachment
- General mood and temperament
- Intellectual functioning
- Communication and social skills
- Expressions of emotions/feelings
- Behavior
- Peer relations
- School performance
- Physical and mental health
- Vulnerability
- Functioning within cultural norms

4. What are the disciplinary approaches and typical context used by the caregiver?

- Disciplinary methods

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- [Concept and purpose of discipline](#)
- [Context in which discipline occurs](#)
- [Cultural practices](#)

[5. What are the overall pervasive parenting practices used by caregivers?](#)

- [Satisfaction in being a caregiver](#)
- [Caregiver knowledge and skill in parenting and child development](#)
- [Caregiver expectations and empathy for a child](#)
- [Decision making in parenting practices](#)
- [Parenting style](#)
- [History of parenting behavior](#)
- [Protectiveness](#)

[6. How does the caregiver function with respect to daily life management and general adaptation including substance use and mental health functioning?](#)

- [Communication and social skills](#)
- [Coping and stress management](#)
- [Self control](#)
- [Problem solving](#)
- [Judgment and decision making](#)
- [Independence](#)
- [Home and financial management](#)
- [Employment](#)
- [Rationality](#)
- [Substance use](#)
- [Mental health](#)
- [Physical health and capacity](#)
- [Functioning within cultural norms](#)

See [Section 1 of DSS Form 30231, the Child and Family Assessment and Service Planning Tool \(CFASP\) – Initial Assessment, Safety Assessment and Safety Planning.](#)

- [16. Assesses the family situation to make a case determination about maltreatment, immediate safety concerns and future risk of maltreatment. Uses the following steps to complete this assessment. The information gathered through these interviews, observations, records review, etc. will provide the information necessary to answer the six assessment questions described in #15.](#)**

[Note: the order of these specific steps may vary given the specific needs of an investigation.](#)

- a. Interviews the alleged victim(s), parents (mothers and fathers), alleged perpetrator, siblings, collateral contacts, and any other involved party. [Interviews family in home setting and observes interaction between and among family members.](#) Interviews [an absent or non-resident](#) parent or documents why the absent/[non-resident](#) parent can not be interviewed and/or involved in the investigation. Reviews information on agency automated system (Human Services and Economic Services), [for indicated](#) and unfounded case information and [in agency](#) paper files.

[Note: Discusses with resident or custodial parent \(usually Mother\) that Father involvement is good for children.](#)

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Children with involved fathers:

- show more confidence and less anxiety,
- perform better in school, and
- are less likely to be involved in destructive behaviors.

Father involvement benefits mothers. An involved father:

- teaches sons to respect women,
- is more likely to have positive communication with the mother, and
- is more likely to provide economic support.

Fathers benefit too by knowing they are having a lifelong impact on a child's life and by enjoying an irreplaceable relationship. All this supports and enhances the opportunity for positive interaction with a family.

- b. Considers the safety of all other children in the home and in alternative placement, including children in the family who are placed at Department of Juvenile Justice (DJJ), and assesses the need to investigate suspected abuse or neglect of children not named in the original report. Initiates reports as appropriate and necessary. Contacts DJJ staff to gather information, to include but not limited to family history, any safety concerns known, evaluations completed by DJJ, child's release date, court involvement and to arrange for interviews with child at DJJ regarding the allegations of abuse or neglect and any other pertinent information.
- c. Gathers information to consider any issues of domestic violence, substance abuse, mental illness and/or criminal activity and the impact of these behaviors on the child's immediate safety and future risk of maltreatment.
- d. As part of the safety assessment and because of the high correlation between violence toward humans and cruelty to animals, explores with the child(ren) and adults, the care and treatment of companion animals in the home, using the information to assess for violence and intimidation in the home. Reports suspected animal abuse to law enforcement or animal control officer. (Reference DSS/LE Protocol for local procedures).
- e. Observes and investigates/assesses any other maltreatment which may not have been included in the initial report.
- f. Assesses children for indicators of developmental delays or exposure to illegal drugs (withdrawal symptoms or other medical effects from exposure as diagnosed by medical personnel) and considers the impact of a developmental delay and/or illegal substance exposure on the child's safety and well being. This determination of developmental delays or illegal substance exposure can come from information obtained:
 - 1. through an analysis by the caseworker and parents of the child's developmental level using the Developmental Milestones Chart;
 - 2. through the required medical screening of a child going into foster care;
 - 3. through an EPSDT screening of any Medicaid eligible child; or
 - 4. any other medical evaluation of a child in the course of a child abuse or neglect investigation.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

NOTE: Any child believed to have been exposed to illegal substances (prenatally or after birth) must have a medical examination.

Provides to parents with children under age of three, a BabyNet card with developmental milestones information and contact number of BabyNet for assistance with voluntary self-referrals.

Completes a BabyNet referral form within 2 working days of determining the need for a referral. (See Section 719.01 for specific guidelines.)

- g. Considers the educational needs of children three years of age and older and assists family with referrals to school for special services. Assesses the performance, attendance, and behaviors of the children in the educational setting and considers the impact of educational issues on safety of child. Cross reference Chapter 8, Section 819.03, for specific guidance on educational needs of foster children.
 - h. Assesses the responses of the parent/guardian to the abuse or neglect to include the acts, omissions or failure to protect by the parent or guardian.
 - i. Takes or causes to be taken color photographs, appropriate and adequate medical examinations, X-rays, and other tests as required in order to assess a situation and to document child maltreatment. **(See Section 750 - S. C. Code of Laws, §20-7-530).** If injuries are to the genital area, the child should be examined by a physician, and photographed as appropriate by or in the presence of medical personnel.
 - j. Documents observations of adults and/or children present in the household and of siblings placed in alternative placement such as DJJ who may or may not be suspected of being abused or neglected. The assessment should include but not be limited to family history and functioning, the specific abuse, and other components as outlined in the six questions relating to maltreatment, nature of abuse, child functioning, parenting - discipline, parenting - general and adult functioning.
 - k. Documents information gathered in the assessment in CAPSS dictation.
17. Considers and discusses with the parent or guardian the safety issues identified for the victim child when the abuse or neglect is determined to have been perpetrated by a person who is not responsible for the child's welfare as defined by §20-7-490, and facilitates or refers the parent to appropriate service provider to meet identified treatment needs for the child and family.
18. As more information about the family and situation is gathered and as any additional present or impending danger threats are identified, revises the existing Safety Plan as needed or develops a safety plan with the family's active participation and agreement. The Safety Plan describes the specific actions to be taken to control for the safety threats that are identified as part of the assessment. Documents the specifics of the ongoing Safety Plan in the CAPSS automated system within five working days. The safety plan is a written arrangement between a family and the agency that establishes how present and impending danger threats to child safety will be managed. The safety plan must be implemented and active as long as threats to child safety exist and the caregiver protective capacities are insufficient to assure a child is safe. The safety plan should:

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- a. identify a protector who has sufficient protective capacities;
- b. ensure that all parties understand their roles and are capable of carrying out their responsibilities; and
- c. document ways in which the child) must be protected [using safety services and actions only, no promissory commitments](#);
- d. [services must have immediate effect, be immediately accessible and available](#);

- e. document reasonable efforts to prevent removal by identifying the safety services [or](#) actions necessary for each child to live safely at home or with a relative or friend. This information will be documented on the Safety Plan. Document on the Safety Plan when a child is at imminent risk of removal by checking YES or NO.

Note: If child is determined to be at imminent risk of removal absent these services (a "candidate" for IV-E foster care), the case must be staffed every three months until risk is reduced and every six months thereafter. A re-assessment of the child's safety must be made at the three month staffing to determine if the child continues to be at imminent risk of removal and what steps the agency must take to address these continuing concerns. Documentation must clearly show this assessment and the determination in order to document IV-E eligibility. Use DSS Form 30229, CPS In-Home Treatment Supervisory Review Checklist as guide for the review and document in the Case Evaluation/Case Closure [section](#).

Note: Reasonable efforts are not required when one or more of the following exists: severe or repeated abuse/neglect; sexual abuse; torture or abandonment; the parent committed or conspired to commit murder, manslaughter or physical abuse resulting in death or hospitalization of a child with subsequent criminal convictions; or parental rights to another child were involuntarily terminated. See S. C. Code of Laws, Section 20-7-763(C), and Section 726, Emergency Protective Custody.

19. Documents the plan to control for safety on the safety plan and have all parties sign, including the identified protector. Files copy of signed safety plan in paper file, provides original to family (copy to each person if multiple signers). If there is no protector identified and/or the family refuses to participate, assesses immediate safety concerns and the likelihood of future maltreatment to child in the home and initiates appropriate actions to protect, such as request evaluation by LE for emergency protective custody or initiate an Ex Parte action. **When the facts support an imminent risk situation, documents that the child is in imminent risk of removal and placement in foster care without effective services to prevent placement by checking the appropriate box on the form.**

NOTE: The safety plan should be modified as necessary to control for safety [and remain in force as long as there are threats to the child's safety and the caregiver protective capacities are insufficient to assure a child is safe. The safety plan controls the conditions that results in a child being unsafe. The worker must discuss the safety plan with the family every time the worker is with the family to ensure that the safety plan is controlling/managing the identified safety threats.](#)

[While it is expected and desired that a child is safe by the time a case decision is made or shortly thereafter, there may continue to be safety threats. Court intervention may be needed if the agency's safety plan does not result in the child being safe.](#)

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Treatment cannot begin until the threat is under control. The Treatment Plan is designed to change behavior or conditions that caused the child to be unsafe or at a substantial risk of future harm.

20. If the identified plan to control for safety involves informal placement with a relative to divert the child from foster care, a family meeting must be held within 24 hours to include the parent, guardian, extended family and other relevant persons to discuss the family's problem that led to intervention and possible corrective actions including, but not limited to, an alternative caregiver for the child. If an alternative caregiver is identified, the following steps must be completed.

- a. Provides the alternative caregiver with information necessary to support placement, including, but not limited to, the child's condition, financial support information, agency expectations regarding safety and other pertinent information;
- b. Completes evaluation of alternative caregiver site within 24 hours of placement using DSS Form 30212 and document findings in CAPSS;
- c. Obtains signed affidavit using the DSS Form 3042 from each adult in the home; and
- d. Completes necessary background checks on relative and all adults in the home to ensure that DSS does not agree to a placement with a person who has a criminal and/or a child abuse or neglect history. Access criminal history as authorized under SC Code of Laws, Section 20-7-616, (Reference SC Code of Laws, Section 20-7-616 and local DSS/LE Protocol).

NOTE: do not consider as an alternative caregiver any person who uses/abuses/addicted to illegal substances or who abuses or is addicted to legal substances.

e. Summarizes in CAPSS the information documented on the Alternative Caregiver Site Visit and the background screenings. Provides a copy to parents and alternative caregiver.

21. If child cannot be protected in the home and has to be taken into emergency protective custody as part of an out-of-home safety plan, follows procedures in Section 726 and in Chapter 8, Section 817.03, Foster Care. If a relative is identified as placement resource and wants to be licensed, advises the relative of the foster care licensing procedures outlined in Chapter 9, Foster Care Licensing Manual.

22. As soon as possible, completes a search of the data base and Central Registry on any individual who is named as a protector and not already included in the case record to determine if the individual is named on the Child Abuse and Neglect Central Registry or has other child abuse or neglect history with the agency that might impact on the child's safety.

23. Completes full assessment of family and allegations of abuse or neglect. The use of a safety plan to assure that the child is in safe placement does not relieve the department of responsibility to complete the assessment and provide services to the family that may be appropriate.

Social Service Worker/Supervisor

24. If the safety threats cannot be controlled by use of a safety plan, requests assistance from law enforcement **or** initiates procedures for removal through Ex Parte Order. **(See Section 750 - S. C. Code of Laws, §20-7-610; Section 726, Emergency Protective Custody).** **Note:** Supervisory consultation should take place prior to initiating removal actions or as soon as possible thereafter. Outcome of

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

staffing must be documented in the automated system. Ensures medical testing of children coming into foster care to include testing for AIDS, drugs, etc., if recommended by medical personnel. **(See Chapter 8, Foster Care Manual).**

Social Service Worker

25. If a child is believed to be unsafe and a safety plan cannot be created that will control or manage the safety threats and a change in custody is anticipated:
- a. explores possibility of relative placement, including non-custodial parent, by convening a family conference.
 - b. ensures relatives are given advance information to understand the process of becoming licensed as foster parents. (Reference Chapter 9, Foster Care Licensing Manual).
 - c. Conducts diligent search for absent parent through the Child Support Enforcement Division by completing DSS Form 2738, Foster Care - Child Support Referral Form. Also, completes a Central Registry and SLED background check, Department of Corrections' Inmate Search at www.state.sc.us/scdc to search for parents who might be incarcerated.
 - d. Considers whether the adult/parent in the home is safe if domestic violence is an issue involving the absent parent. For example, consider if there a restraining order in place against the absent parent.
 - e. Considers the safety of and likelihood of future risk to any child at DJJ who will be returning to the home and if removal of this child is indicated by the facts of the family situation.
26. Maintains photographs, X-rays of the child, copies of medical records and psychological reports on the family in the case record **(See Section 750, S. C. Code of Laws, §20-7-530).**
27. Reviews with involved medical personnel and consults as needed with other medical experts the findings from any medical procedure or information from medical records.
28. Initiates and coordinates a mandatory multidisciplinary staffing prior to the case decision for a child who is admitted to the hospital due to severe injuries believed to have been the result of the acts or omissions of the parent, guardian, or other caregiver.
- a. Includes, but does not limit the staffing to: the attending physician, pertinent hospital staff, law enforcement and/or military police, other professionals who have information on the case, the DSS caseworker and supervisor.
 - b. Holds staffing in face to face forum with all involved parties present. If necessary, involved persons listed may be included through telephone conference call.
 - c. Ensures the sharing of **all** available information on a child with severe injuries so that a thorough and complete assessment can be made.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- d. Documents the outcome of [multidisciplinary](#) staffing on DSS Form 3062 and documents the information [fully](#) in CAPSS.
- 29. Coordinates and reviews case information with involved law enforcement (to include, but not limited to, information contained on the Sex Offenders Registry, contacts with SLED, etc.) or other professionals (to include FI/FS staff - [see DSS Form 1600](#)) to ensure the sharing of information.
- 30. Consults with involved professionals outside the department to ensure communication and clarity of information.
- 31. If additional information is received during the [initial](#) investigation/assessment that alleges a [new](#) incident of abuse or neglect, follows procedures as outlined in **Section 711, Recurrent Referrals** to evaluate the information and determine if a new investigation is necessary.

Social Service Worker/Supervisor

- 32. [Ensures that a case decision staffing is held so that](#) a case decision is made within 45 days [of receipt of the report](#).
 - a. Involves county attorney in the staffing for sexual abuse cases so that any decisions about [the need for](#) family court petitions can be made at the time of the case decision. Documents reason why attorney is not involved in staffing and what has been or will be done to ensure legal input [and timely court actions](#).
 - b. If the sexual abuse case is indicated, provides legal staff with necessary documentation and reports so that legal staff can prepare and file a petition for a hearing on the Central Registry question within 60 days of the decision to indicate.
 - c. Involves county attorney in staffing of any case when it is believed at the time of the staffing that [there is a likelihood that](#) the case will go to family court.
 - d. [Ensures that information from other agency or external professionals is provided at the case decision staffing, either in a report or in person.](#)
- 33. If necessary, submits justification to the County Director or designee for a one-time extension of 15 days if the decision cannot be made within the 45 days but is reasonably expected to be made within the 60 days. Documentation of a staffing of the case with the supervisor must be included with the justification. An extension may be granted at the discretion of the County Director or designee if:
 - a. the child or other relevant party who could not be located within the 45 days, despite the best efforts of the department, is expected to be located within the next 15 days; or
 - b. specific diagnostic information which was initiated or requested within the initial 45 days will not be available within the 45 days, but can reasonably be completed within the next 15 days; or
 - c. other compelling reasons as presented by staff on a case by case basis that there is a reasonable expectation that the investigation can be completed in an additional 15 days; [and](#)
 - d. the request has been made prior to the 45th day of the investigation. **An extension shall not be granted by the County Director or designee if requested on or after the 45th day.**

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Note: Upon request, the State Director or state/regional designee may grant a one-time good cause extension (not to exceed 60 days from the date of the report) for a request not made prior to the 45th day of the investigative/assessment.

Director/Designee

34. Based upon the criteria listed above, makes a decision regarding the request for an extension of 15 days to the investigative/assessment period. The decision must be made by the 45th day of the investigative/assessment.

Social Service Worker

35. Documents extension of time line in the automated case record (CAPSS) within two working days of the decision by the Director/Designee to grant the 15 day extension.
36. In consultation with supervisor, makes an agency finding regarding the validity of the report as soon as all information necessary to make a decision is gathered. A finding **must** be made within 45 days from receipt of the report (unless an extension is granted). Notifies the family and perpetrator of the case decision in person within 5 working days of the decision. This must be done face to face in order to assess the parents' response to the case decision and gauge the impact of their response on the child's safety as well as determine the parents' willingness to cooperate with treatment and/or their desire to appeal the decision. The parents' responses in this face to face discussion about the case decision will help the worker, supervisor, and county attorney to make decisions about the agency's need to petition family court and therefore determine which notice letter is appropriate for the specific situation.

If the decision is not made before 45 days (no more than 60 days), the agency's decision becomes unfounded according to state statute. The case record dictation must reflect the date and outcome of the agency decision staffing to serve as official documentation of the date of the decision. CAPSS must be updated in 5 days of the case decision staffing to reflect the decision and the information that constitutes the preponderance of evidence.

SC Code of Laws §20-7-650(F) "By the end of the sixty-day time period, suspected reports must be classified as either unfounded or indicated pursuant to the agency's investigation," and §20-7-650(H) "All reports that are not indicated at the conclusion of the investigation and all records of information for which an investigation was not conducted pursuant to §20-7-510 must be classified as unfounded."
(See Section 750, S. C. Code of Laws, §20-7-650.

Reminder: If a child is taken into custody by EPC or Ex Parte action and in order to provide investigative and case planning information to the Family Court at the 35 Day Removal Hearing, the worker should complete the investigation as quickly as possible.

Social Service Worker

37. After the case decision, completes the DSS-3070, Determination Fact Sheet outlining the facts supporting the agency decision. The appropriate notice letter as referenced on the DSS-3070 should be completed after the face to face discussion with the family. The notice letter provides specific

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

information regarding the right to appeal an agency decision and the appropriate process for that appeal given the unique case situation. Both documents are mailed to the subject of the report (person alleged or named as the perpetrator) within five working days of the decision to indicate or unfound.

Persons responsible for the child's welfare as defined under Section 20-7-490(3) and who are directly involved in this case which includes the non-residential/non-custodial parent also must be notified of the outcome of the investigation by copy of the DSS-3070 but do not have a legal right to appeal the decision unless they are named as the subject of the report.

38. Documents the specifics of the case decision staffing in CAPSS automated system in five working days of the decision. Documents routine case activity in CAPSS no later than thirty calendar days after the activity.

Social Service Supervisor

39. Reviews and signs off on the case decision and notification letters as necessary. Ensures case documentation in CAPSS is completed.

Social Service Worker

40. If the report is unfounded, classifies the report as Category I, Category II, or Category III according to the evidence identified. (See Section 750, SC Code of Laws, §20-7-650 and §20-7-490.
- a. Informs the subject of the report that the report is unfounded. Also mails the subject of the report a copy of DSS-3070, Determination Fact Sheet and unfounded notice letter within five working days. Updates CAPSS and files a copy of DSS-3070 and notice letter in paper file. Persons responsible for the child's welfare as defined under Section 20-7-490(3) and who are directly involved in this case which includes the non-residential/non-custodial parent also must be notified of the outcome of the investigation by copy of the DSS-3070.
 - b. Notifies FI/FS staff of the case decision immediately using the DSS Form 1600, Referral to Human Services, so that all material about the unfounded case can be removed from the FI/FS case record.
 - c. Updates data base within five working days of the case decision.
 - d. Maintains the unfounded case record according to statute. Uses information in unfounded case records only as allowed by statute. All unfounded case material in the paper record will be deleted/purged at the end of five years unless the record has been secured by the Office of General Counsel for legal reasons or a need to maintain the record has been identified by the County office or the Division of Human Services for reasons related to CPS or LE investigations. (See Section 750 - S. C. Code of Laws Ann., §20-7-650)
 - e. Makes a referral to BabyNet on a child under age three in an unfounded report who appears to need early intervention services by completing the BabyNet Referral Form within two working days of determining need to refer. Discusses with family the BabyNet service and why a referral is believed to be appropriate. This determination of developmental delays can come from information obtained:

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

1. by an analysis by the caseworker of the child relative to the Developmental Milestones Chart found in the Reference Tool;
2. through the required medical screening of a child going into foster care;
3. through an EPSDT screening of any Medicaid eligible child; or
4. any other medical evaluation of a child in the course of a child abuse or neglect investigation.

BabyNet will assess and evaluate a child referred by DSS to determine if early intervention services are appropriate for that particular child. BabyNet services are not coercive services and the parents have [the right to refuse](#) to participate.

41. If the report is classified as "indicated" for abuse or neglect by a preponderance of the evidence: (See Section 750, S. C. Code of Laws Ann., §20-7-650 and 20-7-490).

- a. Informs family of case decision. Discusses with the family the impact of the indicated case decision, any planned court action (to include a request to family court to order person's name be placed on the Central Registry and the potential impact of this action on individual), and the treatment planning process. Provides any information requested or needed to help the family understand DSS intervention.
- b. Notifies law enforcement within 24 hours when the facts indicating child abuse or neglect also appear to indicate a violation of criminal law for the purposes of police investigation. Refers a case to law enforcement if there is evidence of drug manufacture, drug dealing, or the presence of illegal drugs in the home. ([See Section 750 - SC Code of Laws §20-7-650\(S\)](#)).
- c. Discusses with the family the agency's responsibility for providing or coordinating services and the need for the family's cooperation and participation.
- d. Makes the federally mandated referral to BabyNet on any child under age three who is identified as the victim of child abuse or neglect in a substantiated (indicated) case of child abuse or neglect or who is identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure by completing the BabyNet Referral Procedure as outlined in Section 719.01.
- e. Provides the family with a copy of the DSS-3070, Determination Fact Sheet, and other notice letters as appropriate [within five working days of the case decision](#).

Social Service Worker/OHAN Investigator

- f. Notifies the subject of the report by certified mail that for cases indicated pursuant to §20-7-650 [which are not going to Family Court](#), or [for those cases indicated](#) under §20-7-670, the individual determined to have abused or neglected the child may appeal the decision as outlined in **Section 725, Appeals Process**. (See Section 750, SC Code of Laws Ann., §20-7-655).

NOTE: It is the policy of the Department that in cases indicated under Section 20-7-650 where [there are safety concerns and/or where treatment services are to be provided or are reasonably expected to be provided and the individual or family disagrees with the indicated decision and/or the decision to deliver services](#), the case MUST be taken to Family Court. There can be

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

little effective treatment and the safety of the child is in question when there is no acknowledgement of the acts or omissions that led to the abuse or neglect. This process allows Family Court to consider the facts of the situation in totality whereas the Administrative Appeals process cannot coerce treatment nor address child safety.

- g. Notifies service providers such as DJJ, DMH, DHEC, etc., of the outcome of the investigation/assessment in order to coordinate services as needed. When treatment services are appropriate for a family, and the subject of the report disagrees with the results of the investigation, the case should be taken to Family Court under Section 20-7-738 for CPS intervention. In this action, DSS must present evidence to support its case determination and the proposed treatment services. This will provide the subject of the report with an opportunity to contest the case decision and is the individual's avenue of appeal.
- h. For OHAN cases needing treatment services (for example, licensed foster parents with biological children who are found to be abused or neglected), transfers the case to the county of residence for follow up treatment services. (See Section 721 – Out Of Home Abuse Investigations)

Social Service Worker

- i. If the subject of the report challenges the agency decision that he/she abused or neglected the child, or if the Department needs to take the case to family court to compel services, and/or to request that an individual's name be listed on the Central Registry, presents case to DSS attorney for intervention (See Section 750, S. C. Code of Laws Ann., §20-7-650 and §20-7-738).
- j. Informs the family that at any time during the delivery of services by the agency, the department may petition the Family Court in its jurisdiction for authority to intervene and provide protective services without removal of the child. **This step must be taken in instances where the family indicates a refusal to participate and the agency determines by a preponderance of the evidence that the child cannot be protected from harm without intervention.** (See Section 750, S. C. Code of Laws, §20-7-738).
- k. Discusses with the family possible outcomes of a hearing pursuant to §20-7-738.
- l. Informs the family of the time frame for the destruction of the record containing their names and other identifying information. Information in unfounded records will be maintained and used by the department in assessment of risk in subsequent reports for not less than five years. Indicated case information will be maintained for seven years from the date services are terminated. The names of individuals legally on the Central Registry as of June 7, 2002, will continue to be listed. (See Section 750, S. C. Code of Laws, §20-7-650 and §20-7-680).
- m. If a court hearing is deemed necessary, follows requirements of statute. (See Section 750, S. C. Code of Laws, §20-7-738).
- n. Completes DSS-3058, Court Information Sheet, or equivalent summary as needed and appropriate to provide information to the DSS attorney to prepare for the court hearing.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- o. Immediately notifies FI/FS staff of the case decision using the DSS Form 1600, Referral to Human Services.

County Office Staff

- p. Files copies of signed forms, medical or psychological evaluations, court documents or other pertinent information that must be preserved in a paper file. Maintains the case record (paper file) for seven years from the date services are terminated including the actual record and CPS Log (See **Section 750, S. C. Code of Laws, §20-7-650 and §20-7-680.**
- q. **Updates the Central Registry to reflect any court order pursuant to §20-7-650 or appeals process action pursuant to §20-7-655 that results from a county case action.**
- r. Maintains a county tracking system to ensure compliance with all court orders to include entering a person's name in the Central Registry. Designates a person to have direct responsibility for this task. Uses [the tracking system](#) to ensure that when [the agency determines that](#) there is a preponderance of evidence that a person committed an act of sexual abuse, the case is taken to Family Court for consideration of the Central Registry listing and any other treatment concerns.

State Office Program Staff

42. Monitors indicated sex abuse cases and Central Registry for compliance with state statute. Notifies program technical assistance or county operations staff of any concerns that may require follow up with county offices.

State Office Central Registry Staff

43. Receives DSS Form 30165, [a copy of the indictment](#) and the sentencing order from county clerks of court and enters into the Central Registry the names of individuals ordered onto the Central Registry of Child Abuse and Neglect by the criminal court pursuant to SC Code of Laws 17-25-135.

Social Service Worker or Assigned Staff

- 44. In situations where the department has an interest in receiving information regarding persons who are incarcerated due to a conviction on abuse or neglect charges, pursuant to **§16-3-1520 and §16-3-1530 of the Victim's and Witnesses' Bill of Rights**, requests notification of the perpetrator's pending release from the solicitor by completing and forwarding the DSS-3032, Victim Impact Statement for Child Protective Services, to the solicitor and Department of Probation, Parole and Pardon Services.
- 45. Conducts [a search of the](#) Central Registry when contacted by law enforcement investigating abuse/neglect of a child or any other crime against a child, attempting to locate a missing child, investigating or prosecuting the death of a child, or investigating or prosecuting any other crime established in or associated with activities prescribed in the Children's Code. (Reference §20-7-690(B)(4)) Central Registry information is not subject to HIPAA, so procedures associated with HIPAA do not apply to a request that DSS determine whether a person is on the Central Registry.

All Staff

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- [46.](#) Maintains all information concerning child abuse and neglect reports in a confidential manner ensuring that information is given only to those parties specifically named and authorized in §20-7-690 and §20-7-650.
- [47.](#) Ensures that all documentation of actions in a case are completed in the [CAPSS](#) automated case record no later than 30 days after the action. Documents critical case activity, such as removals, court actions, or other as directed by supervisor, in no more than 10 days.
- [48.](#) Ensures that other specified timelines (such as the initiation of investigation, notification of case decision, and documentation of monthly visit in open treatment cases) are met,

County Director

- [49.](#) Approves any entry into CAPSS that exceeds any established timelines for data entry. Refer to Policy Section 701 #7, Procedures Section 719 #11, #19, #35, and #42, and Section 730 Purpose for specific established timelines.

719.01 Referrals to BabyNet

Federal law (CAPTA) requires that all states have provisions and procedures for referral of a child under the age of three who is involved in a substantiated (indicated) case of child abuse or neglect for early intervention services funded under Part C of Individuals with Disabilities Act (IDEA). Additional policy clarification issued for CAPTA defines the mandatory referral to be on the child under age three who is the subject of the substantiated (indicated) report.

IDEA (as reauthorized and effective July 1, 2005) adds that states must have policies and procedures that require the referral for early intervention services under this part of a child under the age of 3 who:

1. is involved in a substantiated (indicated) case of child abuse or neglect and identified as the abused/neglected child; or
2. is identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

This adds to existing IDEA requirements for the referral of children under three who are identified as having suspected developmental delays consistent with 34 CFR 303.321 of IDEA.

It is the intent of this section to provide guidelines for caseworkers and supervisors to assess a child's situation and make an appropriate referral to BabyNet as required. It is not the intent of the agency to require caseworkers to become early intervention specialists. However, the basic assessment of a child's situation is consistent with the overall assessment for immediate safety and the likelihood of future risk that is necessary to make a case decision and plan for services. This is also consistent with the ongoing assessment to address child well being concerns. The completion of the assessment to make a BabyNet referral provides additional documentation that a child's well being was thoughtfully and systematically assessed and that appropriate referrals for services made.

Social Service Worker

1. Makes the federally mandated referral to BabyNet on any child under age three who is identified as the abused/neglected child in a substantiated (indicated) case of child abuse or neglect or who is identified as

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

affected by illegal substances or withdrawal symptoms resulting from prenatal drug exposure or who is suspected of having developmental delays by considering all information gathered in the assessment. This initial screening decision is based on:

- a. the decision that the child is the substantiated victim of child abuse or neglect;
 - b. an analysis by the caseworker of the child relative to the Developmental Milestones Chart found in the Reference Tool; and/or
 - c. through the required medical screening of a child going into foster care; and/or
 - d. through a EPSDT screening of any Medicaid eligible child; and/or
 - e. any other medical evaluation of a child in the course of a child abuse or neglect investigation.
2. Discusses with the parents the assessment information that has led to the decision to refer this child to BabyNet and what the parents can expect from BabyNet along with the contact information. Explains to parents that they can refuse the service but that the service can be beneficial to their child.
 3. Completes the BabyNet Referral Form and submits form to designated local BabyNet office, per federal law, within two working days of identifying the need to refer, (ie. identifying a victim of child abuse or neglect under the age of three, receiving medical information about exposure to illegal substances or identifying a developmental delay).
 4. Staffs the referral with BabyNet to ensure that the information is clear and sufficient for an evaluation of services.
 5. Documents the referral to BabyNet and the outcome (ie. parents' agreement/refusal and BabyNet's plan to serve). Based on the information submitted, BabyNet will decide if further assessment and evaluation of the child is necessary to determine if the child is eligible for early intervention services under IDEA Part C.

NOTE: BabyNet services are not coercive services and the parents have to agree to participate. BabyNet will notify DSS if the parents refuse to participate as there may be other actions that DSS will have to take based on the assessment. If the parents do not agree to being served by BabyNet, DSS should consider the safety and well being of a child referred for early intervention services and determine if the need for the generic service and the issue of parent cooperation should be brought before Family Court just as we would with any other service. We do not ask for Family Court intervention due to parents refusing BabyNet but because the service itself is necessary for the child's safety, well being or permanency.

720 **Refer to Section 721, Out of Home Investigations.**
Revision Number: 03-01, Effective Date: 09/04/2003

Effective August 1, 2002, this section is deleted. Refer to Section 21, Out of Home Investigations.

721 **Out of Home Investigations**
Revision Number: 07-06, Effective Date: 01/30/2007

Purpose: To outline procedures to be followed upon receipt of a report of suspected abuse and neglect of a child. To include referrals of children under the Department of Health and Environmental Control (DHEC) or

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Department of Mental Health (DMH) authority (e.g., DDSN programs other than community-based providers or county mental retardation board-funded programs). These procedures are provided in conjunction with those procedures outlined in **Section 719, Child Protective Services Investigation/Assessment** and those contained in the Day Care Licensing/OHAN Protocol. Reports of out of home (institutions, foster homes, and child care facilities) abuse and neglect will be investigated by the State Office Out of Home Abuse and Neglect (OHAN) Unit, which is designated for this purpose. **Reference S. C. Code of Laws, §20-7-670.**

Social Service Worker/Supervisor (County Office)

1. Receives allegations relating to child abuse and neglect in institutions to include those licensed by DHEC and/or operated by DMH, foster homes, and child care facilities.
2. During working hours (8:30 to 5:00 p.m.), calls the State Office OHAN Unit at (803) 898-7318. At other times after normal working hours and on weekends, calls the toll free number 1-888-722-2580 to communicate a suspected report of abuse or neglect. Upon request by the OHAN intake worker or after hours contact, immediately initiates referral process on automated system (includes **a search** for prior agency involvement) to include allegations and any other information known and pertinent to report of abuse and neglect. **(See Section 750, Reference Data - S. C. Code of Laws, §20-7-670, and 27 S. C. Code Ann. Regs. 114-4510).**

OHAN Intake Worker

3. Conducts an interview of the reporter to ascertain the nature of the alleged harm, the urgency of response needed, and location of the child. Uses intake interview guide to ensure a thorough interview.
4. Checks all agency records to include previously screened out referrals as part of intake assessment process.
5. Completes the referral process on the automated system and in consultation with supervisor/designee as deemed necessary by established protocol, makes decision to accept or screen out referral.
6. Evaluates referrals from all sources by applying the child protection screening criteria to determine whether the allegations meet the statutory definitions that authorize DSS action:
 - a. "a child";
 - b. "Child abuse or neglect" or "substantial risk of harm";
 - c. "person responsible for the child's welfare" other than a parent or guardian.
7. Accepts and investigates reports of abuse and/or neglect involving biological or adopted children of licensed foster parents, of child care providers if the child resides in the child care facility or are receiving care or supervision in the child care facility and of employees, etc., of residential facility, if they reside there or are receiving care and supervision (Reference S. C. Code of Laws, §20-7-670).
8. If the referral is accepted for CPS investigation, calls county DSS office, appropriate Licensing Regulatory staff, other agencies or professionals who might have been involved to notify the assigned social worker and the proper licensing person of the receipt of the report at OHAN:

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- a. Obtains information about child's history;
 - b. Obtains names and addresses of all children involved and of the parents of all alleged victims.
 - c. Uses approved checklist of urgency factors to complete the section on Response Priority.
 - d. Logs the report on OHAN case tracking tool immediately and on other management data instruments as required.
9. If the reporter does not have sufficient information for a screening decision (e.g., needs time to gather more information or can provide no identity for the child):
- a. places the referral in pending for up to 24 hours while gathering more information;
 - b. makes and documents reasonable attempts to locate the child (by checking OHAN files, calling county CPS or other agencies, consulting CPS data base, Central Registry, other agency automated systems or records as appropriate and available); and
 - c. Within 24 hours of receiving call, accepts referral for investigation **or** screens out referral, using the screening criteria and/or makes referral to any other appropriate entity for follow-up (i.e. Law enforcement, licensing, etc.).
10. If the referral fails to satisfy the child protection screening criteria, refers the information immediately by telephone, with follow-up in writing to explain the situation as follows (i.e., licensing violation, service needs, etc.):
- a. county DSS Foster Care Licensing, or State DSS Group Home Regulatory, or Day Care Regulatory (within 24 hours);
 - b. the facility's administrative department (including DDSN programs);
 - c. community social or health services provider; and
 - d. Categorizes information under Unfounded Category IV and documents in automated system.
11. If the referral fails to satisfy the criteria because the child is age 18 or over, or because the alleged abuser is not "a person responsible for the child's welfare", refers the information in writing within 24 hours of receipt of the referral to the appropriate law enforcement agency.

State Office Supervisor/Designee or Unit Staffing

12. If the referral involves a DJJ institution or foster home, or a DSS-operated day care or residential facility, refers the information to the State Law Enforcement Division immediately by telephone, following the call with a printed copy of the intake report (mailed or faxed) within 24 hours of the intake decision.

State Office Supervisor/Designee or Unit Staffing

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

13. Reviews screened out referrals within 24 hours for appropriateness of decision. Completes referral decision on automated system if concurs with decision and enters information as Unfounded Category IV.
14. Assigns the accepted referral to an OHAN investigator and updates automated system. Assists in planning the initial contact, as needed (e.g., where to see the child and whether to arrange an appointment to interview the caretaker) and in keeping with the urgency of the response.

OHAN Investigator

15. Notifies the appropriate state or local law enforcement agency within 24 hours of receipt of any report alleging:
 - a. sexual abuse/sexual assault;
 - b. child exploitation (substance abuse or contributing to the delinquency of a minor);
 - c. severe injuries (requiring professional medical attention) resulting from caretaker's acts or omissions; and/or
 - d. any other case required by the local DSS/Law Enforcement Protocol.

Note: Staff should describe the CPS report and mail or fax a copy to law enforcement on request.

16. Determines with law enforcement whether a joint investigation is necessary to pursue a criminal investigation or to ensure the safety of either the child or the OHAN investigator. Notifies local law enforcement within 24 hours of discovering the appearance of any criminal law violation at any point in the CPS process.
17. Searches the data base to determine licensing status, regulatory complaint history and maltreatment history and discusses with regulatory staff whether a joint visit to the setting would be appropriate, and whether an unannounced visit to the setting is warranted. Sends a copy of the referral information to regulatory staff within three working days, to notify them of OHAN's receipt of the report.
18. Adds any person not previously listed on automated case record and completes search for prior reports of maltreatment involving the child (to include unfounded Categories I, II, III and IV), the caretaker or the setting, and initiates a criminal background (law enforcement) check when appropriate.
19. Contacts county CPS or foster care worker or day care staff to inform them of the report and to discuss the child's history and adjustment in the setting. Discusses urgency factors and whether an unannounced visit is warranted (based on the potential risks to the child, concern for the caretaker's privacy interest, and the integrity of the investigation). Arranges for the county staff to make immediate face to face contact with the alleged victim in certain unusual circumstances, as in the following:
 - a. Initial information suggests that an urgent situation exists and immediate contact is necessary to assess risk and ensure safety; **and** the

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- b. OHAN investigator cannot respond soon enough to satisfy the urgency of the situation (within two or twelve hours).

OHAN Investigator or County Social Service Worker

- 20. Initiates an investigation within 24 hours of receipt of the report as required in **S. C. Code of Laws, §20-7-650** and within two or twelve hours (consistent with the response priority assigned) by attempting to make face to face contact with the alleged victim child. Exceptions to the standard requiring face to face contact:
 - a. If certified county CPS or licensing worker is first to see the child, the OHAN investigator must make contact as soon as possible with the person who made initial contact, to be briefed before assuming lead responsibility for the investigation;
 - b. When a reasonable attempt to see the child has failed (e.g., the child has moved or is temporarily away from the setting) and the facility has an executive administrator who has demonstrated the ability to ensure the safety of other children at risk (and who is not the alleged perpetrator), negotiates a temporary safety plan by phone to protect the children until contact is reached. However, the OHAN worker must attempt to make contact to see the child, view the setting and talk with witnesses or others by the statutory deadline--within 24 hours of the report.
- 21. Documents the date and time of initial contact and other pertinent information in the dictation on automated system within 48 hours of receiving the report.

OHAN Investigator

- 22. Notifies the subjects of the report pursuant to Section 20-7-650 that an allegation of child maltreatment is being investigated. Also, in foster home investigations, notifies the county DSS child welfare supervisor or a designee; in group homes, children's homes and institutions, the facility's chief executive officer or a designated administrator; and child care facilities, the owner/operator.
- 23. Provides information in this notice about the following, without releasing any information that might reveal identifying data about the reporter:
 - a. the allegations;
 - b. the CPS process; and
 - c. the rights of those involved in the investigation, including a copy of DSS Brochure [3034](#), Protecting Children: A Guide for Parents). (See **Section 750, Reference Data - S. C. Code of Laws, §20-7-650, and 27 S.C. Code Ann. Regs. 114-4510**).

OHAN Investigator and County Social Service Worker

- 24. In foster home cases, the OHAN worker notifies by phone, [fax or e-mail](#) the county agency with custodial responsibility for each alleged child victim; the county worker then notifies the parents by phone or in person that a report is being investigated. (OHAN follows up with a letter to the parents of alleged victims mailed [within 3](#) working days after receiving the report.)

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

OHAN Investigator

25. In cases of residential facilities and child care facilities, the OHAN investigator assumes the responsibility for ensuring that the parents of alleged victim children either residing in a residential facility or attending a child care facility are notified. (Generally, this will involve a call to the parents from the facility administrator, with a follow-up letter mailed by OHAN by the end of the next working day. But if the administrator has not called the parents within 24 hours of the initial contact, then OHAN staff must call to explain the situation to them.)

OHAN Investigator and County Social Service Worker

26. In either case (#24 and #25), the notice should include the nature of the allegations, the name and phone number of the OHAN worker assigned, the protective measures taken, the legal and due process considerations and the advice that a letter will notify them of the findings at the conclusion of the investigation.

OHAN Investigator

27. Creates a case on the automated system and documents in the dictation the date and time the verbal and written notifications were made.
28. Informs the staff of the situation and any other persons deemed necessary to the investigation of their obligation to make themselves available and cooperate fully with the agency in its attempt to discover the true facts of the incident which is alleged to have occurred. **(See Section 750, Reference Data - S. C. Code of Laws, §20-7-670, and 27 S. C. Code Ann Regs. 114-4520).**
29. Conducts an investigation to include a safety assessment which will include, but not be limited to:
- a. Completing an on-site visit to the physical premises where the incident is alleged to have occurred;
 - b. Completing private interviews with the child(ren) (before talking with staff in most cases), as appropriate for their developmental levels and abuse histories. Arranges for an interpreter or other special assistance if child is disabled, deaf or blind. May arrange for county CPS staff to interview any children or the victims' parents;
 - c. Documenting efforts to locate and gain access to the child, and petitions the court for an inspection order if necessary to gain access to the children, caretakers or records;
 - d. Reviewing medical records and arranging medical examinations as necessary;
 - e. Interviewing the alleged perpetrator(s), administrative staff, witnesses, others with pertinent information (e.g., parents of alleged victims);
 - f. Explaining the allegations, the CPS process and the possible consequences to the caretaker face to face, while protecting reporter identity and enlisting the caretaker's cooperation;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- g. Reviewing documents or records related to the incident, including any statement of program mission, policy, philosophy or procedure which may have risk impacts on the current or former residents of the setting;
- h. Recording all interviews, evidence, impressions and observations in a manner consistent with training and OHAN performance standards (including preservation of physical evidence and photos - document when taken, by whom and number of photos, body part, child's name);
- I. Assessing the risks of further maltreatment to all children in the setting, using the approved risk assessment references and processes, and documenting observations in the **dictation**;
- j. Arranging for the county (in foster care cases) or the facility administrator (in institution cases) or owner/operator (in child care facilities) if not named as alleged perpetrator to notify immediately the parents of children named in the report of the suspected report;
- k. Completing other actions as required to ensure a comprehensive investigation as defined in OHAN performance standards; and
- l. Conducting exit interviews with proper administrative staff in out-of-home abuse investigations and day cares.

30. Prior to a determination decision:

- a. Considers any additional information the alleged perpetrator (or facility administrator) may provide after the initial interview.
- b. Consults with the proper regulatory person to discuss possible violations of standards and to explore the corrective action history of the setting.
- c. Consults with county CPS and Foster Care staff to discuss the child's vulnerability, abuse history, and the circumstances surrounding the child's placement.
- d. Completes a case staffing of the investigation with OHAN Unit and other appropriate staff.
- e. Initiates and coordinates a multidisciplinary staffing in those cases where a child has suffered severe injuries believed to result from abuse or neglect.
- f. Refers in writing to the medical examiner or county coroner and to the Department of Child Fatalities (at SLED) all cases in which a child is believed to have died as a result of child abuse or neglect. Also, follows procedures as outlined in the DSS Child Death Protocol.

31. Reports observations to the county CPS office of the child's residence when information suggests that children other than those being investigated by OHAN pursuant to Section 20-7-670 may have been harmed or threatened with harm, as defined in Section 20-7-490, for the county to assess, if appropriate.

32. Makes observations of risk to all children residing in the foster home, residential institutions, or child care facilities and investigates allegations of child maltreatment involving biological or adopted children in

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

addition to foster children, initiates an investigation of any new allegations with follow-up to the OHAN intake office. The Licensing Unit and the County Office shall be advised of any new report and provided copies of supporting documentation as soon as possible.

33. Arranges for emergency medical treatment, consultation, or examinations (e.g., physical exam, radiological work, psychological evaluation) as appropriate to the child's needs and the integrity of the CPS investigation. Obtains parental consent for children who are not in state's custody.
34. Negotiates and documents a mutually satisfactory Safety Plan (DSS-3087) in concert with that person in authority at the setting who is most capable of assuring the child's well-being before leaving the setting without the child. Coordinates with county Foster Care staff and Regulatory staff. Bases the Safety Plan on:
 - a. The best interests for safety, emotional and developmental well-being of all children at risk in the setting;
 - b. The reasonable expectations of the child's own parent or legal guardian;
 - c. The risk factors that in the worker's judgment, pose the most severe or immediate threat to the child's safety;
 - d. The child's attachment with the caretaker and the potential for harm after negotiated safety measures are in place.
35. Requests the proper authorities to take the necessary steps to ensure the safety of the children immediately upon discovering that any of the children are in imminent danger of abuse or neglect:
 - a. In the case of a licensed foster home, residential institution or child care facility, requests the Licensing or Regulatory Unit to take appropriate licensing action.
 - b. In a DDSN community program, requests the assistance of the facility administrator or department personnel in taking the appropriate protective action, or petitions the court for injunctive action.
 - c. In the case of foster children, requests the county CPS supervisor or the county DSS attorney to assist with the child's removal and change in placement, court personnel for hearings, or other actions necessary to ensure the child's safety. OHAN staff will provide investigative information (and testimony if necessary) for any further hearings.
 - d. In the case of children not in DSS custody, requests county office assistance to coordinate with law enforcement for emergency physical/ protective custody.
36. Arranges a multidisciplinary staffing of involved persons in all cases when a child is hospitalized due to injuries received to be held prior to case decision.
37. Describes the evidence supporting and refuting the allegations in a draft of DSS-3070, Determination Fact Sheet. Obtains an analysis of the facts as appropriate from law enforcement, the child's county case manager, medical and mental health practitioners, the agency's administrator, and the OHAN supervisor.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

This analysis will take place in a staffing if possible, before making the determination decision. Documents staffing in dictation on DSS Form 3062.

38. Applies the statutory criteria and the preponderance of evidence standard of proof to the facts in an analytical decision process, considering all the information gathered, to include but not limited to, the nature of the child's injuries, the reasonableness of the caretaker's supervision practices, and the result of the staffing. Makes the determination decision in consideration of the totality of the information.

OHAN Investigator/Supervisor

39. Documents the determination within 45 days of the date OHAN intake accepted the report for CPS investigation on DSS-3070, Determination Fact Sheet, and in dictation. Completes all necessary documentation required on automated system. Obtains a review of the decision by the OHAN supervisor unless the supervisor participated in the decision- making with the investigator at a staffing.
40. If necessary, submits justification to the Assistant Director of Division of Human Services, Child Protective Services, or designee, for a one-time extension of 15 days if the decision cannot be made within the 45 days but is reasonably expected to be made within the 60 days. Documentation of a staffing of the case with the supervisor must be included with the justification. An extension may be granted at the discretion of the Director or designee if:
- a. the child or other relevant party who could not be located within the 45 days despite the best efforts of the department, is expected to be located within the next 15 days; or
 - b. specific diagnostic information which was initiated or requested within the initial 45 days; however, due to circumstances beyond the control of the department, will not be available within the 45 days, but can reasonably be completed within the next 15 days; or
 - c. other compelling reasons as presented by staff on a case by case basis that there is a reasonable expectation that the investigation can be completed in an additional 15 days; and:
 - d. the request has been made prior to the 45th day of the investigation. **An extension shall not be granted if requested on or after the 45th day. Note:** Upon request, the State Director or State Office designee (other than the designee previously noted in this section) may grant a one-time good cause extension (not to exceed 60 days from the date of the report) for a request not made prior to the 45th day of the investigation.

OHAN Investigator

41. Notifies the subjects of the report of the indicated case determination decision in writing by DSS 3061 and DSS 3070, and DSS 3065 if unfounded. Mails within five working days of the case determination. Sends notice by certified mail if the determination is "indicated".

Note: Unfounded cases must be classified as Category I, II, and III. Those to be notified are as followed:

- a. The subjects of a report, the child(ren) who were allegedly the victims and the parents, foster parents or agencies who now have custody of the child, and all parents of children at risk who were notified of the

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

receipt of the report. (This letter advises that a determination has been reached and whether the allegations were indicated or unfounded; it also provides the name and phone number of the investigator but not the perpetrator's identity);

- b. The residential or child care facility administrator and the alleged perpetrator;
 - c. In foster home cases, the county Foster Care or CPS worker, the placing agency if other than DSS, the foster parent (and license holder if applicable), the County Director of the licensing county, and the regulatory entity that issued the license.
42. Includes with the notification letter to foster parents and facility staff a copy of DSS-3070, Determination Fact Sheet, as well as a notice of their right to appeal. Excludes information identifying the reporter.
43. Updates automated system with case decision and enters name of perpetrator in indicated reports into the Central Registry, both within five working days of the case decision.
44. If requested, notifies any reporter of the determination decision and whether services were provided if such notice is in the best interests of the child, and provided that the reporter has legal responsibility to care for the child. Notifies all mandated reporters of the above information, as well as the name of the OHAN investigator and the nature of the indicated maltreatment if this information serves the child's best interests, and provided the reporter has legal responsibility to care for the child. **(See Section 20-7-690, S. C. Code of Laws).**
45. Notifies the appropriate law enforcement agency if the facts indicating abuse or neglect also appear to indicate a violation of criminal law, for the purposes of police investigation. This would include all indicated reports of sexual abuse, severe injuries resulting from abuse, neglect, or exploitation.

Note: All reports of sexual abuse must have been referred to law enforcement at the receipt of such reports. Also, includes referrals not accepted or subsequently unfounded because the child is 18 years of age or older, the perpetrator was not a "person responsible for the child's welfare" (e.g., scout leader, sitter, etc.), or there was insufficient proof of a perpetrator's identity.

OHAN Investigator/Child's County Worker

46. Offers to help negotiate supportive services for foster parents to reduce risks or treatment alternatives for the child as necessary if the report is unfounded. Coordinates with the county worker when requested by the foster parents. Advises the county director, county licensing staff or other regulatory entity in unfounded cases of any risks that should be attended to, and of any policy or licensing violations noted during the investigation (e.g., disciplinary practices or sanitation problems). Cooperates on request by presenting information at licensing hearing.

OHAN Investigator

47. Transfers to county of residence, indicated reports concerning biological and adopted children of out of home care providers investigated under 20-7-670 for the provision of services, and any family court involvement necessary.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- 48. Assists county staff in family court cases by presenting evidence relative to investigation.
- 49. Coordinates with the child's county worker to convey recommendations for treatment planning for the child and necessary action against the perpetrator in indicated cases as appropriate.
- 50. Arranges for a multidisciplinary staffing or telephone consultations with the child's county worker, county licensing or state group home or child care regulatory staff, and investigative team members to consider recommendations of treatment for the child and corrective action for the facility in all cases in which a child suffers severe injuries from the acts or omissions person in an out of home setting responsible for the child's welfare as defined by 20-7-690(3). OHAN staff member leads the staffing and forms recommendations from the input of the attending physician, mental health expert, law enforcement, and state regulatory or county licensing worker.
- 51. Conveys recommendations for corrective action to the facility administrator in a letter notifying the facility of its obligation to develop a written course of action to prevent the recurrence of the incident.

OHAN Investigator/County Licensing or State Regulatory Worker

- 52. Negotiates the terms of the Corrective Action Plan (CAP) with the facility's administrator or a designated representative and the appropriate licensing or regulatory worker, consistent with the interagency agreement DSS maintains with the facility or with the facility's licensing provisions for corrective action planning.

OHAN Investigator

- 53. Ensures that the terms of the CAP submitted to OHAN by the facility are reasonable and in keeping with the agreement, and that they are implemented in a timely way, no later than 90 days after issuance of the determination letter.
- 54. Provides training or technical assistance on risks and risk reduction measures for facility administrators and their staff on request.
- 55. Coordinates the CAP with state regulatory or county licensing staff to ensure that the terms will be monitored and enforced.

State Regulatory Staff

- 56. Ensures that the facility notifies child placing and funding agencies and the children at the setting of the existence of the CAP.
- 57. Requests the assistance of the Office of General Counsel in any appeals or the county attorney for family court activity involving out of home investigations.

OHAN Investigator and DSS Legal Counsel

- 58. Prepares and presents the department's case at an Appeals Hearing should the perpetrator request an appeal within the 30 days allowed by statute. **(See Reference Data - Section 725, Appeals Process; and Section 750, S. C. Code of Laws, Section 20-7-655).**

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

59. Participates in any family court hearings to testify to investigation findings.

OHAN Investigator

60. Ensures that all information which must be maintained in a paper file is preserved. Prepares a case summary narrative report within 30 days of the case determination, verifying that all required documents are included before closing the investigation.

61. Destroys information related to unfounded reports five years from the date the report was determined to be unfounded provided no new reports are received in the five years. Combines old information if a new report is received prior to five years. **(Reference 27 S. C. Code Ann. Regs. 114-4520; and Section 20-7-650, S. C. Code of Laws).**

62. Maintains the case record of all indicated cases for a period of seven years **(Reference 27 S. C. Code Ann. Regs. 114-4520).**

722 Investigation of Medical Neglect of Disabled Infants

Revision Number: 03-01, Effective Date: 09/04/2003

Purpose: To provide procedures to be followed when a report of suspected medical neglect of a disabled infant is received as required by Public Law 98-457.

NOTE: These procedures are relevant only to cases involving infants in hospitals or other health care facilities regarding withholding of nourishment and medically beneficial treatment **solely on the basis of the child's present or anticipated mental or physical impairment. Reference §20-7-610, §20-7-652, S. C. Code of Laws**, for county responsibilities related to suspected medical neglect for religious or other reasons, reflecting an exercise of judgment by the child's parent or guardian.

State Office Investigator/Social Service Worker

1. Receives report of suspected neglect of a hospitalized disabled infant.
2. Refers information to State Office Out of Home Abuse and Neglect Unit.

State Office Investigator

3. Initiates investigation as described in **Section 721.**
4. Contacts hospital liaison and designated medical consultant to notify them of report.
5. Conducts interviews with medical personnel and parents.
6. Schedules staffing of liaison and medical consultant, and others as deemed appropriate to share information regarding the child's condition, as well as appropriate medical records. **Reference §20-7-652, S. C. Code of Laws.**

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

State Office Investigator

7. If **indicated**:

- a. coordinates legal efforts to provide needed treatment with the department's legal representative and the local Department of Social Services of child's residence; and
- b. transfers case to county for delivery of treatment services.

8. If **unfounded**, documents records as appropriate and makes referrals, as needed.

723 Cases Involving Indian (Native American) Children
Revision Number: 07-06, Effective Date: 01/30/2007

Purpose: To outline specific requirements and responsibilities under the Indian Child Welfare Act. (See **Section 754, Indian Child Welfare Act.**)

Social Service Worker

1. Determines through interviews with parents, guardians, or from tribal enrollment lists that the subject child meets the definition of an "Indian child" as defined in the **Indian Child Welfare Act, 25 USCA, Section 1903.**
2. Investigates allegations involving Indian children as outlined in **Section 719, Child Protective Services Investigation.**
3. Notifies the agency legal representative if an Indian child is to be removed from his/her custodian, or if a voluntary placement is to be signed.
4. In the event that a petition involving a child custody action is filed with the Family Court, forwards notice of pending action to the parent or Indian custodian and the Indian child's tribe by registered mail with return receipt requested (**See Section 754, Indian Child Welfare Act, 24 USCA, Section 1912.**)
5. Places an Indian child who must be removed for reasons of protection, in the least restrictive setting which most approximates a family and in which his/her special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home (**See Section 754, Indian Child Welfare Act, 25 USCA, Section 1915.**)
6. Considers that in any foster care or preadoptive placement, preference shall be given in the absence of good cause to the contrary, to a placement with:
 - a. a member of the Indian child's extended family;
 - b. a foster home licensed, approved or specified by the Indian child's tribe;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- c. an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 - d. an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs **(See Section 754, Indian Child Welfare Act, 25 USCA, Section 1915).**
7. Follows procedures in Chapter 8, Foster Care Manual, for placement [and Chapter 9, Foster Home Licensing for licensing of home as appropriate.](#)

724 Client Opposition to Intervention

Revision Number: 03-01, Effective Date: 09/04/2003

Purpose: To outline steps to be taken by staff and/or supervisor when the client refuses to admit the worker to the home or becomes overtly hostile and orders the worker to leave before completion of an interview or appointment. **(See Reference Data - Section 758.17, Worker Safety).**

Social Service Worker

1. If appropriate, restates his/her interest in the child's well-being and the mandate of the agency.
2. If the client orders the worker to leave, the worker shall leave the premises immediately and consult with the supervisor regarding the current situation.

Social Service Supervisor

3. Upon consultation with the worker, decides whether or not to request assistance from law enforcement or Family Court in order to complete the investigation. **(See Section 750, Reference Data - S. C. Code of Laws, §20-7-738).**

Social Service Worker

4. Contacts law enforcement or DSS legal representative for assistance to request an inspection warrant pursuant to §20-7-650(D) if required in order to complete an investigation.

725 Appeals Process

Revision Number: 08-02, Effective Date: 07/31/2008

Purpose: To outline the procedures for the Department's appeals process for those reports indicated and entered into the Central Registry pursuant to Section 20-7-670 and for other indicated cases pursuant to Section 20-7-650 not being brought before Family Court for disposition. **See South Carolina Code of Laws, Section 20-7-655, 27 SC Code Ann Regs 114-130.**

An individual is provided due process protection through either Family Court or the Administrative Appeals hearing. The Administrative Appeals process is provided for cases not being brought before Family Court.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

It is the policy of the Department that in cases where the individual disagrees with or challenges the case decision and the safety of the child is in question in any way, the case must be taken to Family Court as the process by which the individual can appeal the decision.

It is the policy of the Department that in cases where treatment services are to be provided or are reasonably expected to be provided and the individual or family disagrees with the indicated decision and/or the decision to deliver services, those cases MUST be taken to Family Court as the process by which the individual or family can appeal the decision.

There can be little effective treatment and the safety of the child is in question when there is no acknowledgement of the abuse or neglect. Given this position, it should be a rare situation when a county CPS case is referred to the administrative appeals process.

State Director/Designee

1. Appoints a hearing officer to conduct a contested case hearing. Insures that the hearing officer is not a person who was involved in making the case decision or the person who conducted the interim review.

Responsible Staff (County or OHAN)

2. Notifies individuals in writing by use of the appropriate case decision notice letter (DSS Form 3061 (OHAN) or DSS Form 30200 for county case) of their right to appeal the case decision within thirty days. (Reference Chapter 7, Sections 719 and 721)

Office of Administrative Hearings (OAH):

3. Receives a request for an appeal from the person named as perpetrator/subject of report and notifies the case manager (either county DSS or Out of Home Abuse unit (OHAN)) within 48 hours of receipt of request for an appeal.
4. Determines if the request for an appeal is within the required time frames (**Reference Section 20-7-655, S. C. Code of Laws**).
5. Schedules the hearing date, time and place.

Responsible Staff (County or OHAN)

6. Sends the DSS-3070, Determination Fact Sheet, and the DSS-3058, Court Information Sheet, or equivalent summary, to OAH within ten days of receipt of notification from OAH of the hearing request.

Hearing Officer

7. Notifies appellant or appellant's representative and the department's attorney of the proposed hearing date, time and place.

Responsible Staff (County or OHAN)

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

8. Makes the case record (with identifying information on reporter and attorney/ client privileged information deleted) available to the appellant or his/her representative. Case record includes all referral and case information on data base, signed notices, medical or mental health information, court orders, law enforcement or school and other documents as pertinent. Confers with agency attorney to determine if any information should be redacted prior to releasing the case record.
9. If requested, provides a free copy of the case record to the appellant or his/her representative.

Reviewer [for Interim Review \(designated by the State Director as County Director for county cases and Assistant Director of Division of Human Services \(CPS Program Manager\) for OHAN cases\)](#)

10. Conducts an interim review of the case record within 14 days of receipt of the request to determine if there is a "preponderance of the evidence" that the child was abused or neglected and that the appellant committed the abuse or neglect.
 - a. Determines that the indicated finding that the appellant abused or neglected this child is not supported by a preponderance of evidence, converts case to unfounded and maintains case record as provided in SC Code of Laws Ann. Section 20-7-650. Notifies OAH and the appellant or appellant's representative in writing that the Interim Review found the appellant did not abuse or neglect the child and that the case decision is overturned. The OAH then dismisses the appeal.
 - b. Determines that the appellant did not abuse or neglect the child but that the child was abused or neglected by someone else or person unknown. Maintains the indicated case finding but removes the appellant's name as perpetrator of the abuse or neglect. Notifies the appellant or appellant's representative and OAH that the case remains indicated but the appellant will not be listed as perpetrator. The OAH then dismisses the appeal.
 - c. Determines that the indicated finding is supported by a preponderance of the evidence that the appellant abused or neglected the child. Notifies the appellant or appellant's representative in writing that the finding is upheld and the appeals process will continue. A copy of the letter is sent to the OAH.
11. Documents the findings of the interim review in the case record on CAPSS. Based on the interim review decision, ensures that the appropriate changes are made to the Central Registry and to CAPSS by removing name of individual from Central Registry if found not to be the perpetrator and converting decision to unfounded if child found not to have been abused or neglected.

Hearing Officer

12. Upon notification of a reversal at the Interim Review, dismisses the appeal. If the decision is upheld, holds hearing as scheduled.

Appellant and/or DSS Attorney

13. Notifies the Appeals Unit if the proposed hearing date is not suitable.

Hearing Officer

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

14. Arranges adequate meeting facilities for 8-12 people to accommodate the hearing.
15. Receives and rules on any request for continuance.
16. Reschedules hearing and notifies appellant/representative and department attorney of new hearing date and time.

Appellant if not represented by Attorney

17. Requests the OAH to subpoena documents or witnesses at least 14 (fourteen) working days before the hearing. The request must include addresses of the witnesses and any needed documentation to be brought to the hearing (i.e. school records).

Appellant's Attorney and DSS Attorney

18. Issues subpoenas and ensures compliance with any applicable state and federal law. Mileage and fees, if any, are the responsibility of the appellant or DSS, depending on who secured testimony of the witness.

Hearing Officer

19. Issues subpoenas for appellant without attorney if requested.
20. Administers the witness' oath or affirmation.
21. Conducts the hearing.

DSS Attorney

22. Represents the agency and coordinates the appearance of the OHAN investigator or county case manager.

Appellant/Appellant's Attorney

23. Presents his/her case at the hearing.

Hearing Officer

24. Accepts testimony and written evidence.
25. Rules on objections.
26. Questions the witnesses.
27. Limits the number of persons in attendance at the hearing if space limitations exist and/or a request for sequestration is submitted. May sequester the witnesses upon his/her own motion.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

28. Allows both parties to question or refute any testimony or evidence and provides the opportunity to confront and cross-examine witnesses.
29. Allows both parties to submit evidence in accordance with law to establish all pertinent facts and circumstances in the case.
30. Constructs a hearing record as required by the South Carolina Administrative Procedures Act.
31. Considers all allowable testimony and evidence and provides a draft order to the Director or the Director's Designee. The Director/Director's Designee reviews the record and determines whether or not the abuse or neglect by the appellant occurred.
32. Notifies the appellant/appellant's representative and the department's attorney of the hearing decision.
33. Notifies the appellant/appellant's representative of the right to seek judicial review.

Responsible Staff

34. Implements the decision of the appeals hearing.
35. Updates the database and the Child Abuse and Neglect Central Registry as appropriate.
36. Sends written notice to the appellant/representative of the action taken to implement the decision.

Appellant

37. Files an appeal for judicial review with Family Court within 30 days of the decision if still dissatisfied with the department action.

726 Emergency Protective Custody

Revision Number: 08-02, Effective Date: 07/31/2008

Purpose: To outline steps to be taken pursuant to **§20-7-610, S. C. Code of Laws**, when a law enforcement officer has taken a child into emergency protective custody. These procedures are general and must be considered in conjunction with **Section 719** and **§20-7-610** and written protocols developed by DSS and law enforcement as required by **§20-7-610**. When making reasonable efforts to preserve and reunify the family and when assessing what efforts are most appropriate, the Department always has the child's health and safety as its greatest concern (Reference Chapter 8, Foster Care Manual).

Social Service Worker

1. Upon receipt of the referral, begins the intake process and initiates an investigation as provided in Section 719, if the allegations constitute suspected child abuse and/or neglect, and meets law enforcement at agreed upon location **within two hours** to assume physical control of the child. If the child is in need of medical treatment, meets the officer at the health care facility or accompanies the officer and child to the health care

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

facility. If the child is not in need of medical treatment, places the child in a licensed foster home or shelter. **(Reference local Law Enforcement/DSS Protocol and Chapter 8, Foster Care Manual).**

2. Consults with the supervisor as soon as possible and as necessary and immediately begins the 24 hour Preliminary Investigation as required in §20-7-610 to determine what actions are necessary regarding the placement of the child. Implements reasonable efforts to prevent removal or documents basis for dispensing with reasonable efforts (see factors listed in §20-7-763(c)), or documents the lack of opportunity to provide reasonable efforts due to emergency situation. Reference Section 719, CPS Investigation/Assessment.
3. Gathers information from the law enforcement officer taking emergency protective custody about the situation, reason for the action, whether legal custody must be assumed now, and if any medical treatment is needed. **(Reference §20-7-610, S. C. Code of Laws). Consults local Law Enforcement/DSS Protocol for procedural guidance).**
4. When a child is taken into foster care, requests a State Law Enforcement Division records check on parents to determine if:
 - a. grounds for termination of parental rights exist as defined by §20-7-1572;
 - b. DSS should ask the court to dispense with reasonable efforts pursuant to §20-7-763; and
 - c. information in the parents' background check has bearing on their ability to care for the child or on services.
5. If there is reason to suspect the child may have been adjudicated delinquent for, or has pled guilty to or been convicted of a sex offense, checks with SLED Sex Offenders Registry or local law enforcement to confirm conviction. Refer to Chapter 8, Foster Care Manual, regarding placement issues and Section 819.02 and 821.
6. If the family has a child incarcerated at DJJ, communicates with DJJ staff to obtain information regarding the nature of the offense, release status, services provided, and other relevant information to assess safety and post-incarceration living arrangements. Considers the impact on the family of the child's return to the home from DJJ and if that child will be safe or if removal of the incarcerated sibling is necessary. Shares information pertinent to child with DJJ staff. Refer to Chapter 8, Foster Care Manual, regarding placement issues and Section 819.02 and 821.
7. Receives and files in paper case file copy of law enforcement incident report as soon as it is available.
8. Notifies the child's parent/guardian as soon as possible of the child's location. **Note:** The location of the child should not be disclosed if there is reason to believe that such disclosure would be contrary to the best interest of the child (i.e., possible unauthorized contact with the child in placement). Staff must decide on a case by case basis and in consultation with the care provider how much information should be disclosed and document justification for the decision. **Reference §20-7-610, S. C. Code of Laws, and Section 817.01, Foster Care Manual.**
9. As notice of the investigation, provides to and discusses with parents DSS Brochure 3034, Child Protective Services: A Guide For Parents, which provides information about the process, parents' rights and

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

responsibilities, and possible court action as a result of this situation as required in **§20-7-650**. Also provides to parents with handbook on legal rights entitled Child Abuse, Child Neglect - What Parents Should Know If They Are Investigated.

10. Convenes, if possible within the 24 hours, a family meeting with the child's parents or guardian and other appropriate family members as described in §20-7-610. Participants must be instructed to maintain confidentiality of information disclosed by the agency. **(Reference 20-7-690, S. C. Code of Laws)**.
11. Within 24 hours of the time the child was taken into emergency protective custody, and in consultation with the supervisor, considers information gathered to decide whether:
 - a. grounds for assuming legal custody exist; or
 - b. the child can go back home or to some other placement. **(Reference §20-7-610, S. C. Code of Laws)**.
12. Consults with supervisor and law enforcement, and follows procedures outlined in §20-7-610 prior to placing a child in any placement other than a licensed facility or shelter. Documents actions in dictation.
13. If an investigation pursuant to Section 719 has been initiated, makes a decision as to whether there is reason to believe that the child has been abused/neglected as defined in §20-7-490 **(Reference Sections 710, Intake, and 719, CPS Investigation)**.
14. If the department concludes through the preliminary investigation that the "imminent and substantial danger" no longer exists and the child can return home or to an alternative placement, implements a Safety Plan if safety factors are identified and follows requirements of **§20-7-610, S. C. Code of Laws (See Reference Data, Section 750)**.
 - a. If relative placement appears appropriate, implements a safety plan, secures parental consent if possible, and an affidavit from the individual who is to care for the child and any other adults in the home regarding any criminal (check LE records) or child abuse or neglect history (check Central Registry, data base, unfounded case information) as well as considering other pertinent information on a case by case basis;
 - b. Within 24 hours of the time the child was taken into emergency protective custody, consults with the officer who took the child and asks for the officer's position on the department's decision to return the child. Documents in the record the discussion and decision. **(Reference local DSS/Law Enforcement Protocol)**;
 - c. If unable to contact law enforcement officer, refers to local DSS/Law Enforcement Protocol for alternative arrangement in order to secure law enforcement input on decision to return child home **(Reference §20-7-610, S. C. Code of Laws)**;
 - d. Requests that law enforcement conduct records check on relatives. If law enforcement is unable to complete, retains child in emergency protective custody for an additional 24 hours **(Reference §20-7-610)** while law enforcement conducts check.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- e. If the family and agency agree to a specific relative placement and additional time is required by the specified relative to prepare for placement, retains child in emergency protective custody for up to five additional days after the first 24 hours (**Reference §20-7-610, S. C. Code of Laws**).

Note: Advises parents that they have the right to make a written request for a probable cause hearing as provided in §20-7-610, S. C. Code of Laws. A probable cause hearing is not required unless the placement fails to occur as planned within the five-day period or the child's parent or guardian makes a written request for a hearing to the department.

- 15. If the department concludes through the preliminary investigation that the child should remain in care or if law enforcement approval to return the child is not obtained within 24 hours of the emergency protective custody, department assumes legal custody of the child. (**Reference §20-7-610, S. C. Code of Laws**).
 - a. Refers to Law Enforcement/DSS Protocol for alternative procedures for contacting law enforcement officer.
 - b. Consults with supervisor and DSS attorney.
 - c. Requests that DSS legal representative initiate, by complaint, a removal proceeding on or before the next working day in the appropriate Family Court to include a request for child support (**See Section 750, Reference Data - S. C. Code of Laws, §20-7-610, and Chapter 8, Foster Care Manual**).
 - d. Updates CPS Legal Actions in automated system.

Social Service Supervisor

- 16. Convenes a staffing with CPS assessment and foster care staff to determine the recommendation to be made at the probable cause hearing: for the children to remain in agency custody in foster care or for the children to be reunified with custody to the parent/caretaker. (**Reference Chapter 8, Foster Care Manual**).

Social Service Worker

- 17. If the officer directs at removal, assumes legal custody of a child pursuant to an emergency protective custody by law enforcement, and immediately begins the 72 hour Preliminary Investigation as required in **§20-7-610**.
- 18. Initiates a complete and thorough investigation of the allegations of abuse and neglect which gave rise to the removal as outlined in Section 719, Child Protective Services Investigation. (**Reference §20-7-610**).
- 19. Receives and files in paper case file copy of law enforcement incident report describing allegations of abuse or neglect as soon as it is available.
- 20. Determines the child's level of safety, assesses risk, prepares recommendations for alternate placements or other appropriate action to be brought before the court at the probable cause hearing.

Social Service Worker/Supervisor

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

21. Schedules and/or participates in the [staffing to determine the recommendations to be made at the probable cause hearing](#). **(Reference Section 810.01, Intake, Foster Care Manual)**.

DSS Attorney

22. Schedules the probable cause hearing within 72 hours of the time the child was taken into emergency protective custody.

Social Service Worker

23. Completes the DSS-3058, Court Information Sheet, or equivalent court summary for the DSS legal representative. Updates legal information on automated system.
24. If not named as a party in the complaint, notifies the noncustodial parent of the removal and the date and time of hearing **(Reference §20-7-610)**.

Social Service Supervisor

25. Consults with the worker and DSS Attorney regarding the situation and seeks guidance or assistance as needed.

DSS Attorney

26. Prepares and files all court documents needed for removal proceedings.
27. Reviews court documents with DSS staff.

Social Service Worker/Supervisor

28. Participates as appropriate in the court proceedings.
29. If the case is determined to be unfounded prior to the probable cause hearing, staff may return physical custody of the child to the parent, parents, guardian, immediate family member, or relative, with the department retaining legal custody pending the probable cause hearing **(Reference §20-7-610)**.
- [30. If child is retained in custody, proceeds to complete the investigation prior to the 35 Day Removal Hearing so that the investigative findings and case plan can be presented in family court at the hearing.](#)

727

Emergency Protective Custody by Ex Parte Order

Revision Number: 03-01, Effective Date: 09/04/2003

Purpose: To outline the steps to be taken pursuant to §20-7-610, S. C. Code of Laws, when there is sufficient time for the county department to ask the family court for an emergency removal order because department staff has probable cause to believe that a situation of imminent and substantial danger to the child exists, or upon notification that the family court has ordered Ex Parte that the child be taken into emergency protective custody.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(See Section 750, Reference Data - S. C. Code of Laws, §20-7-610 and §20-7-736, and Section 810.01, Foster Care Manual).

Social Service Worker/Supervisor

1. Consults with supervisor to verify that probable cause exists to believe that the child is in imminent and substantial danger to life, health, or physical safety and there is sufficient time to obtain an Ex Parte Order.

Note: If sufficient time is not available, law enforcement should be contacted for assistance with emergency protective custody (**Reference Section 726 and §20-7-610, S. C. Code of Laws**).

2. Requests that DSS legal representative complete the Ex Parte pleadings to include the description of the child's situation and a request for child support (**Reference Section 810.01, Foster Care Manual**).

DSS Attorney

3. Prepares the Ex Parte pleadings and Ex Parte Order.

Social Service Supervisor

4. Upon consultation with the department's legal representative and worker, reviews pleading and other documents for Family Court.

Social Service Worker

5. Requests that DSS legal representative file pleadings in the appropriate Family Court and present the pleadings to the Family Court judge.
6. Completes the DSS-3058, Court Information Sheet, or equivalent court summary to be given to the DSS legal representative. Updates [legal information on automated system](#).
7. Completes affidavit to support the Ex Parte pleadings, if requested.

DSS Attorney

8. Presents pleadings to the family court. Obtains signature on Ex Parte Order.

Social Service Worker

9. Upon notification that the Family Court has issued an Ex Parte Order, contacts law enforcement for assistance in service of Ex Parte Order and removal of the child (**Reference local Law Enforcement/DSS Protocol**).

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Purpose: To guide interaction between the agency and legal representatives of the child and family.

728.01 Attorney for Parent

Revision Number: 03-01, Effective Date: 09/04/2003

The following steps must be taken when the attorney for the parent requests to review the record on an indicated case. (Record is defined as all material in paper file in addition to copies of data base information, excluding any identifying information on reporter.) **(See S. C. Code of Laws, §20-7-690).**

Social Service Worker

1. Requests the attorney to provide worker with confirmation of his standing in the case (signed release, court order, letter from attorney on attorney's letterhead, or verbal confirmation from parents).
2. After receipt of the authorization, provides the parent's attorney with a copy of the report if requested during the investigative phase, but withholds all identifying information on the reporter.
3. After receipt of the authorization, provides the parent's attorney with a copy of the record if requested after completion of the investigation or any time during the delivery of services, but withholds all identifying information on the reporter.
4. Shares confidential information from medical care providers and mental health care providers under provisions of Section 20-7-690(D). [Consults with DSS attorney if unfounded case information is requested.](#)

728.02 Attorney or Guardian Ad Litem

Revision Number: 03-01, Effective Date: 09/04/2003

Purpose: The following steps must be taken when the child's attorney or Guardian Ad Litem requests to review the record **(See Section 750, Reference Data - Section 769.13.04, Guardian ad Litem, and S. C. Code of Laws, §20-7-110 and §20-7-690).**

Social Service Worker

1. Makes available a copy of the indicated case record and provides information as requested by the guardian ad litem or child's attorney. The guardian ad litem and attorney **are not** entitled to identity of reporter **(See §20-7-690)**. (Record is defined as all material in paper file in addition to copies of data base information, excluding any identifying information on reporter.)
2. Consults with DSS attorney if unfounded case information is requested. **Reference §20-7-650(J).**

729 Child Protective Services (CPS) Alerts

Revision Number: 08-02, Effective Date: 07/31/2008

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Purpose: To provide procedures for protective services staff who are trying to locate persons listed in reports or findings of child abuse or neglect when staff have exhausted all efforts to locate the family at the local level or there is reason to believe that the family has left the area. Because of confidentiality laws, alerts can be sent only to other agencies with responsibility for child protection investigations which may include law enforcement.

County Social Service Supervisor/or Designee

1. In consultation with staff, determines the need to search for a child or family and assesses the safety concerns in a specific situation. This includes, but is not limited to, situations where the family physically moves from or are temporarily inaccessible at the known address. If a family moves during the investigation, CPS must make diligent search efforts until the end of the 45 day investigative period and document all the efforts made to locate the family prior to unfounding Category III for loss of contact. If there are specific reasons to expect that the family can be located with an additional 15 days, requests the one-time extension through the county director. (See Section 719 for specifics for one-time extension.)

Given the mobility of families involved in CPS treatment services, county staff have the responsibility to search CAPSS and make other diligent search efforts monthly for a minimum of three months prior to closing a treatment case due to loss of contact. All efforts to locate must be documented in CAPSS. This information will provide for continuity of services should the family apply for services in another SC county office or otherwise come to the attention of DSS.

2. Prior to initiating an alert and if the re is not already confirmation that the family has left the area, ensures that staff make every effort to locate the family in the county and in South Carolina, to include but is not limited to the following actions:
 - a. searches agency data bases and other records for statewide search to include CAPSS and CHIPS;
 - b. checks with utility companies;
 - c. contacts schools, other service providers;
 - d. interviews relatives, neighbors, other collaterals; and
 - e. requests assistance from law enforcement.
3. **Immediately** contacts by telephone, the CPS agency or law enforcement of another SC county, another state or local jurisdiction where the family is believed to have moved and provides information necessary for an emergency response when a child is believed to be in imminent and present danger or if impending safety threats have been identified placing the child at significant risk of harm. Provides to the SC county the case and person ID numbers for CAPSS case which contains the details of agency involvement with the family.
4. Immediately follows up within 24 hours of the phone call to provide the following information in writing to another state or local jurisdiction and a copy to State Office Assistant Director for Child Protection, Division of Human Services, for auditing purposes:

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- a. Names of victims, perpetrator(s) or family members to be in the alert, all known demographic information, including physical descriptions;
 - b. Circumstances requiring an alert: allegations, risks and special considerations (court orders), immediate medical needs, law enforcement involvement;
 - c. Description of the vehicle, license tag number or other mode of travel, if known;
 - d. Any information regarding the possible destination of the family in order to focus the search;
 - e. Instructions as to the disposition of victim(s) if found, e.g., take into protective custody, inform alert requester;
 - f. The name and phone number of a contact person during and after office hours, if different.
5. In other non-emergency situations when staff know where the family is likely to be, contacts the CPS agency in that [county or state](#) jurisdiction by telephone within two working days to give information necessary to initiate actions as appropriate. Follows up in writing with information outlined in item #4 above within five working days, and faxes a copy to Assistant Director for Child Protection, Division Human Services, fax number (803) 898-7641, for auditing purposes.
6. In situations where [there is insufficient information to target the alert and](#) a general alert to multiple jurisdictions [outside of South Carolina](#) is necessary, requests that a protective services alert be initiated by faxing a confidential memo [containing](#) the information as outlined in item #4 above to the Assistant Director for Child Protection, Division of Human Services at (803) 898-7641. [Includes in this request any specific information about the family's possible destination in order to focus the alert distribution.](#)

State CPPS Staff

- [7. Receives from the county office the request to initiate an alert as described under #6, sends the alert to CPS agencies in other states as deemed appropriate.](#)
- [8.](#) Receives from another state or jurisdiction [outside of South Carolina](#), the request to initiate a protective services alert when the family's location is unknown and takes the following steps:
- a. Logs the alert by the name of the subjects; date of birth; referral [state](#) and date alert received;
 - b. Conducts an [initial](#) search of the agency's statewide computerized records to determine if the subjects have applied for assistance [or are the subject of a CPS investigation](#). Notifies the requesting agency in writing of the results of the [initial](#) search [to confirm receipt of the alert and to advise the state that SCDSS will conduct a search of agency records once a month for three months with the alert automatically terminating at that time unless the requesting state makes an additional request](#);
 - c. Maintains the protective services alert for [three](#) months and conducts [monthly](#) searches of the agency's computerized records as specified in item b;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- d. Notifies requesting agency if information is received as to the location of the subjects of the alert. Immediately notifies the SC county office of the location of the family and child believed to be in need of child protective services so that the county can make contact to assess safety and current needs of child and family;
- e. If no information is located on the family after three month period, terminates alert unless the requesting state agency has made an additional request to maintain the search.

Social Services Worker

- 9. At the end of the investigative period, unfounds in Category III those reports where the family cannot be located after a diligent search. This information will remain on the data system for not less than five years for the purpose of reopening the investigation if the family is located.
- 10. In open treatment cases, documents efforts to locate family and outcome of search in dictation. Staff case with supervisor when family cannot be located and evaluates for other actions and/or closure. Makes diligent search efforts monthly for minimum of three months before treatment case can be closed due to loss of contact.

730 Family Assessment

Revision Number: 08-02, Effective Date: 07/31/2008

Purpose: To ensure the ongoing safety of all children in the home(s) of the alleged victim(s) and/or under the control of the alleged perpetrator and to assist the family to identify risk factors which contributed to the abuse and/or neglect. The family assessment is: 1) an in-depth study of the family's current situation and history; 2) individualized for each member; 3) focuses on child safety and on strengths and needs for individuals and family group; 4) determines resources with family; 5) geared toward development of ongoing plan and delivery of services; and, 6) in itself, intervention that impacts on the entire family and its members. A family assessment must be completed even if child has been diverted to a relative under a safety plan.

Family assessments must include all family members if they are accessible and do not pose a threat to other family members. Document why a specific person is not involved.

Social Service Worker

- 1. Staffs case information with assessment/investigating worker and/or supervisor.
- 2. Reviews and completes documentation as required.
- 3. Completes the individualized family assessment using Section 2: Comprehensive Family Centered Risk Assessment and Case Planning of the Child and Family Assessment and Service Planning tool to guide this assessment as soon as possible after a report has been indicated. The assessment should be completed within 30 days following indication.
- 4. Completes the assessment on the child, parent, family and environmental factors by:
 - a. Reviewing all written information, records and documents;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- b. Contacting the family to inform them of the assessment, its purpose, and how it will be completed;
 - c. Interviewing every involved member of the immediate family, including any sibling incarcerated at DJJ or in other out-of-home placement;
 - d. Interviewing and observing the family together, particularly observing children under three for developmental delays and coordinating services with BabyNet to meet identified needs;
 - e. Interviewing extended family and other significant individuals as appropriate;
 - f. Reviewing available medical records on all involved children;
 - g. Scheduling appointments with professionals for medical, psychological or psychiatric evaluations on family members as deemed appropriate by worker and/or immediate supervisor and other collaterals as appropriate;
 - h. Assesses the educational needs of the children and the performance, attendance, and behaviors of the children in the educational setting. Considers the relationship of these factors to the reason for agency involvement (i.e., abuse and neglect affects child's school performance or attendance). Meets with school officials as appropriate and facilitates parental involvement as necessary and maintains educational records in file. Cross reference Chapter 8, Section 819.03, for guidance on educational needs of foster children.
 - i. Documenting observations in behavioral terms; and
 - j. Considers the willingness of the parent/guardian to participate in treatment planning for the return of the incarcerated sibling following discharge and considers the impact of the child's return home on the family functioning. Provides DSS records to DJJ per Child Abuse Prevention and Treatment Act (CAPTA) requirements and coordinates with DJJ to plan for return of the incarcerated child to the family. Updates DJJ at six month review and prior to closure if sibling remains incarcerated.
5. Considers for closure where the plan has been achieved, desired outcome reached, and there is little to no risk to child. Using [Section 1: Child Safety of the](#) CFASP, completes a safety assessment and a re-assessment of risk using the [Family Centered Risk Assessment and Case Planning](#) tool to determine if child now safe and if the likelihood of future maltreatment has been reduced.
6. Staffs case information with supervisor and DSS attorney to determine need to petition family court for authority to intervene.
7. When appropriate, requests that DSS attorney file a petition with the Family Court for authority to intervene and provide protective services as authorized by **§20-7-738 and §20-7-762, S. C. Code of Laws (See Section 750, S. C. Code of Laws)**.
- a. Assesses the appropriateness of including in the petition, siblings in alternative placements such as siblings incarcerated at DJJ. Notifies service providers as appropriate, including DJJ staff of pending court hearing.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- b. Staff cases with mutual clients with DJJ on a quarterly basis to ensure information sharing and joint planning.

Social Service Supervisor

8. Reviews with staff and signs off on the comprehensive family assessment [as documented in the Comprehensive Family Centered Risk Assessment and Case Planning.](#)

731 Casework Treatment Process

Revision Number: 08-02, Effective Date: 07/31/2008

Purpose: To outline actions to be taken to assist the family and/or family network to reduce risk factors which contributed to abuse and/or neglect and enable the family to provide a safe environment for their children without the involuntary services of DSS. **(See Section 750, S. C. Code of Law, §20-7-738).** Uses the Child and Family Assessment and Service Planning Tool to guide the treatment planning and assessment process.

Note: The policy and practice standard of the Department is that Child Protective Services staff will conduct at least one face to face interview per calendar month with the victim child, siblings and any other children [who reside](#) in the home, and parents, protective adult, and/or other caregiver during the time a case is open for in-home child protective services. More contact must be held when necessitated by safety concerns or developments in the case. The primary purpose of this contact is to assess safety and future risk of maltreatment to the child, as well as review the progress of the plan. [The majority of visits must be conducted in the family home in order to assess the child and caregivers' interaction and the overall safety of the home environment.](#) Documentation of the monthly visit must be entered into CAPSS by the end of the month of that visit.

Staff will conduct at least one face to face interview with a sibling who is incarcerated and maintain contact with DJJ staff to share and gather relevant information regarding the sibling and to coordinate services as necessary.

Social Service Worker

1. Consults with the clients and other professionals to arrive at an appropriate and accurate understanding of the case dynamics and likely outcomes or alternatives. Exchanges information with DJJ staff for a sibling incarcerated at DJJ and coordinate contact per interagency protocols.
2. [Discusses with the family every time the worker is with the family any Safety Plan still in place to ensure that it is controlling/managing the identified safety threats. The safety plan stays in place until 1\) the safety threat no longer exists or 2\) an alternative plan \(such as out of home placement\) is required to control/manage the safety threats.](#)

[Note: In order to accurately and adequately assess child safety, the majority of these discussions must take place in the family home for first-hand observations of parent-child interactions and the physical environment.](#)

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

3. Concurrent with ongoing safety assessment and within 30 days of the indicated case decision, assists the family to complete the Family's Story in Section II of the Family Centered Comprehensive Assessment and Case Plan. Uses all the information gathered about the family situation to complete the comprehensive family assessment and service planning analysis with the family.
4. Building on the comprehensive family assessment, prepares with the family (specifically, with mother, father, age appropriate children, significant other persons) and appropriate service providers, a family centered treatment plan which details any changes which must be made in parental behaviors or home conditions that make children unsafe and any services which will be provided to the family to assist in the behavioral changes.
5. Makes reasonable efforts to engage the non-residential parent in the treatment plan as appropriate based on the safety assessment of that individual and any existing court orders. The non-residential parent is usually the father but that may not always be the case.

Note: While the objections of the custodial or residential parent need to be considered in any plan to involve the non-custodial/non-residential parent, CPS has a duty to discuss with the custodial parent the potential benefits that this involvement might have for the children and to attempt to engage the absent or non-residential parent in planning for their children.

Discusses with resident or custodial parent (usually Mother) that Father involvement is good for children. Research has validated the following areas of benefit and can serve as basis for discussion.

Children with involved fathers:

- show more confidence and less anxiety,
- perform better in school, and
- are less likely to be involved in destructive behaviors.

Father involvement benefits mothers. An involved father:

- teaches sons to respect women,
- is more likely to have positive communication with the mother, and
- is more likely to provide economic support.

Fathers benefit too by knowing they are having a lifelong impact on a child's life and by enjoying an irreplaceable relationship. All this supports and enhances the opportunity for positive interaction with a family.

If a child has been assessed to be at imminent risk of removal (a candidate for IV-E foster care) without effective preventive services, this determination must be documented in the case plan.

Note: If child has not been removed but was determined to be at imminent risk of removal absent these services (a candidate for IV-E foster care), a decision about whether the child **continues** to be at imminent risk of removal must be made at the three month case staffing for high risk situations. This decision and the steps the agency is taking to address these continuing concerns must be documented in the case record. The case must be staffed every three months until risk is reduced and every six months thereafter.

Documentation must clearly show this assessment for IV-E eligibility.

If the child must come into foster care, specific information will be needed for the IV-E eligibility determination. See DSS Forms 1905 and 1903 to help guide information gathering.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

The plan must include documentation of time frames for completing the treatment goals and schedules for evaluation and review of the treatment plan.

Note: The treatment plan may be updated to continue services initiated during the investigation/assessment period.

Note: Service planning must involve all members of the family (to include but not limited to, mothers, fathers, step parents, significant others) and any age appropriate children. Document efforts to involve all family members and why a specific person is not involved.

6. Arranges and coordinates services provided by non-Child Protective Services agency personnel.
7. Arranges for and refers to specific services such as financial assistance, housing and family support.
8. Refers clients who appear to meet criteria for need and income to Medicaid office for assistance in applying. Note that the client must provide proof of citizenship and personal identity as part of the application process. Other eligibility criteria remain the same.
9. Monitors delivery of treatment services which includes, at a minimum, contacting other service providers, seeing the child and parents once a month and making a home visit to continue to assess safety, risk and progress on the treatment plan. [Documents in CAPSS the family's activities over the past month relating to the treatment plan.](#)

Maintains contact with DJJ regarding services provided to a sibling incarcerated at DJJ, to include quarterly staffings on mutual clients. See Chapter 8, Foster Care, Section 819.02 and 821. Coordinates with BabyNet when early intervention services are being provided to a child under three years of age.

For situations where family members involved in the treatment plan leave the state, a substitute contact can be made and documented in CAPSS as a successful face to face monthly visit **ONLY** if the child is seen by a professional in CPS or related field, such as, state child protection worker, mental health therapist or medical professional engaged in treating the child, law enforcement office or school personnel directly involved with the child AND there is supervisory concurrence that this contact meets the requirement to assess the child's current condition.

If the adult or child resides in South Carolina and is geographically distant, the DSS office with case management can make arrangements with another DSS county office for face to face contact. If the client is in some sort of facility (prison, hospital, DJJ), the worker can use contact with the facility's case management/social work staff who does have direct contact with the child as a substitute for face to face contact with that child but must still see the parents once a month for continuity and joint case planning purposes.

10. Completes case management activities including: service planning; coordination; referral; monitoring; reassessment; and evaluation.
11. Provides other casework services and activities to clients as needed.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

12. Documents treatment planning activities on the automated system (CAPSS) to include in addition to ongoing and routine activity with the family but not limited to, the rationale for removing a person from the treatment case if formerly related, added in error, deceased, multiple person codes, etc. Completes the plan itself using the CFASP treatment plan. Provides a copy to the family and files a copy in paper file.
13. Notifies supervisor immediately when there is loss of contact with the family for any reason to discuss how to locate. Makes diligent search monthly for minimum of three months prior to closing case. Documents in CAPSS monthly efforts to locate family. If there is evidence to suggest where the family has moved, immediately contacts the other SC county, other state or jurisdiction to provide information for recommended followup.

The plan to locate should include, but not be limited to:

- Ø varying contact times with the family;
- Ø requesting that law enforcement assist in locating;
- Ø making contact with a client on their job site;
- Ø sending registered letters to the last known address;
- Ø contacting the post office, utility companies, schools, or other such entities;
- Ø contacting known relatives and associates;
- Ø contacting other involved community agencies; and
- Ø requesting a CPS Alert when there is evidence that the person and/or family has moved out of state.

Social Service Supervisor

14. Reviews treatment plan to assure that the social service worker's performance meets policy, procedure and legal mandates.
15. Provides oversight and concurrence as appropriate to alternative methods of monthly face to face contact and determines with worker when individual should no longer be associated with a case for the purposes of the treatment plan and specific CAPSS documentation (use of the "Formerly Related" role code).
16. Provides opportunities for professional development.
17. Provides consultation to social service worker regarding service delivery and treatment strategies.

Social Service Worker

18. Consults with supervisor during treatment plan evaluations.
19. Reviews and updates the family assessment once every six months at a minimum or when significant changes occur within the family.

NOTE: The family assessment on the automated system must be reviewed every six months at a minimum, more often based on the level of risk to the child. The worker must discuss with the family the safety plan every time the worker meets with the family to ensure that the safety plan is controlling/managing the identified safety threats. The safety plan stays in place until 1) the safety threat no longer exists or 2) an alternative plan (such as out of home placement) is required to control/manage the safety threats.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

20. Completes a comprehensive evaluation and progress review with the family, service providers and supervisor at a minimum of every six months, but more often if needed based on the facts of the case. This comprehensive case evaluation will focus on recognizing the changes in behavior that have occurred in the family members over time that are needed to create a safe environment for children and identifying any other changes needed. Documents this comprehensive evaluation in CAPSS using the summary format on the Case Evaluation section and updates the treatment plan as appropriate. Prints copy for client signatures and provides a copy for family.

Social Service Supervisor

21. Conducts case record review within the first three months that a case is open to assess:
- a. whether services are based on comprehensive assessment to reduce risk;
 - b. appropriateness of any informal relative placement, safety and risk assessment and services to reduce risk;
 - c. the efforts to involve the family in planning.
22. Reviews with the worker the ongoing assessment of the family every six months (or every three months if high risk situation) and evaluates the need to revise or continue the treatment plan. Evaluates whether a child initially assessed to be at imminent risk of removal (candidate for IV-E foster care) continues to be at risk of removal and what actions have been taken to reduce risk of removal. Reviews with the worker the safety assessment and considers the impact on the child and family. Considers any children in an alternative caregiver arrangement, specifically, the plan to get the child back home and evaluation of prognosis for parental change that will allow child to return home or any planned court involvement. Uses the CPS In-Home Treatment Supervisory Review Checklist DSS Form 30229, as guide for this review. Documents the review in CAPSS.
23. Reviews treatment plan and ongoing assessment of child's need and case plan and approves or gives further instruction for completion.

Social Service Worker

24. When the family refuses to cooperate with the treatment plan and the agency determines there is a preponderance of evidence to believe protective services are necessary to protect the child from harm without removal of custody, consults with supervisor and agency attorney to initiate a complaint with the Family Court to request continued intervention.
25. Convenes family meeting within three to five days of the case review to discuss the well-being of the children in alternative caregiver placement or potential alternative caregiver placement, as well as the progress or lack of progress toward completing the treatment plan. The family meeting should include, at a minimum, the father, mother, age appropriate children, and extended family and other persons significant to the family if they have or will have a role in supportive services, treatment, or protection.
26. Consults DJJ staff to consider the need for and coordinate a meeting to discuss the incarcerated sibling's needs and to share information regarding the outcome of the family meeting. **(See Section 750, Reference Data - S. C. Code of Laws, §20-7-650 and §20-7-738).** Update automated system.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

27. If information is gathered or discovered during the treatment process that differs significantly from previous findings, or alleges a new incident of suspected abuse/neglect, initiates a new report to allow for a thorough investigation of the new allegations (**Reference Sections 711, Screening of Recurrent Referrals, and 719, Child Protective Services Investigation**).
28. Staffs case with all involved service providers, including but not limited to DJJ, according to the time frames set forth in the treatment plan and documents in automated system.

Technical Assistance Consultant

29. Prior to the end of the 18th month, staffs active case with county worker and supervisor as deemed appropriate and document case staffing in automated system.

Note: Reference Section 734, Case Plan - Treatment Services, for steps to be taken to close a case.

731.01 Treatment Cases Shared With Managed Treatment Services (MTS)

Purpose: To coordinate services when CPS/MTS jointly serve the same family.

County Social Service Worker

1. When a youth in foster care is being case managed by MTS and the family is or becomes a CPS treatment family, or if there are siblings at home who are listed on the court order, provides all CPS services to the family.
2. Arranges regular staff meetings with MTS to coordinate services, including, for example, treatment plans, Family Court hearings, and Foster Care Review Board Meetings.

MTS Service Coordinator

3. Serves the youth in foster care until such time as the youth leaves foster care or is transferred back to the county or to Adoptions.

County Director/MTS Regional Director

4. In the event there is a disagreement about plans, services or responsibilities that cannot be resolved by caseworkers and supervisors, the County Director and MTS Regional Director are to resolve the difference.

Note: For clarification of the roles of MTS, refer to Chapter 8, Section 822.01.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Purpose: To provide procedures in determining a family's eligibility for EAS as defined by criterion authorizing these services and tracking expenditures and outcomes (**See Reference Data - Section 761**). **Note:** The following procedures are contingent upon the availability of resources.

Social Service Worker

1. Initiates the application on every family on whom a CPS report has been taken or child placed in foster care. Diagnostic services necessary to the case decision, such as medical X-rays or sexual abuse protocols, may be paid during the time prior to completing the application. If funds are used for these diagnostic exams, the application must be approved and authorized for the time period services were utilized.
2. Determines there is a need for EAS to prevent placement or reunify the family and the family meets the stated requirements as defined in Section 761.04.
3. Determines that if needs are met:
 - a. placement in out-of-home care due to abuse and neglect can be prevented; or
 - b. a child who has been in substitute care for less than six months can be reunited with his/her family; or
 - c. if substitute care placement cannot be prevented, then child is in need of service for up to 365 days from the time of removal from the home of a specified relative. One year is defined as 365 days.
4. Documents on the Safety Plan how the expenditure will control for safety and thereby prevent placement.
5. Checks the Child and Adult Protective Services System (CAPSS) and *database* to determine if client has been authorized for EAS in the last twelve months.
6. Completes DSS-30157, Emergency Assistance Services Application/ Justification Form, and:
 - a. has parent, guardian or representative sign the DSS-30157;
 - b. indicates the reason for no client signature in the signature section of the DSS-30157 for children in substitute care or whose parent(s) refuse to sign the application;
 - c. If any questions on the DSS-30157 are answered negatively, denies the EAS application;
 - d. If all questions are answered affirmatively, approves the EAS application;
 - e. Documents compliance with the general requirements.
7. Files the denied application, DSS-30157, in a file separate from the unfounded CPS record and maintains for three years for federal auditing.
8. Ensures that the authorization period is completed within 30 days of application approval.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

9. Ensures that services do not exceed 365 days.
10. Ensures authorized expenditures do not exceed the maximum funding limits of \$5000 per family per 365 day (**Reference Section 761.01.05**).
11. Ensures availability of services.
12. Forwards DSS-30157 to immediate supervisor if county funds are authorized.

Social Service Supervisor

13. Reviews DSS-30157 and 30156 and documentation to ensure EAS eligibility criteria are met:
 - a. If criteria are not met, returns DSS-30157 to social service specialist with appropriate instructions.
 - b. If criteria are met, proceeds with application/justification.
 - c. Files a copy of the DSS-30157 in the case record (**Reference Section 761.01.07**).
14. Signs and dates the local fund authorization report and ensures that county expenditures do not exceed \$5,000 per family. (Does not include substitute care costs paid from State Office).
15. Coordinates with and informs County Director as deemed appropriate by individual county operating procedures.
16. Returns original to social service worker to be filed in case record.

Social Service Worker

17. Follows county procedures to request a check from the county bookkeeper.
18. Authorizes Service Code 2000 for client by accessing CAPSS screen to enter data. (**Reference Casework Management Policy and Procedure Manual, Section 150, Casework Management Process and Section 761.01.03**).

NOTE: The head of the family should be the primary client. If a child has already been placed in foster care, the foster child is the primary client.

County Bookkeeper

19. Processes payment of EAS funds following instructions in the DSS Manual of County Office Accounting. Notifies worker that check has been written.

Social Service Worker/County Bookkeeper

20. Records dollars spent for approved services (subcodes) by entering data on CAPSS. Enters dollars spent in the month in which expenditure occurs. Records only funds for which county office writes checks. Does

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

not include funds paid from State Office (such as foster care board payments and administrative costs).
Reference Section 761.01.06 and 761.01.11.

21. Completes by the 5th day of the month and forwards to the State Office Program Development Unit the Human Services Statistical and Financial Reporting form. There is no need to send a copy of the general ledger to the State Office Coordinator. Attach a copy of the general ledger to the Human Services Statistical and Financial reports as indicated in the instructions.

22. Provides the County Director with a copy of the Human Services Statistical and Financial Reporting form.

State Office Coordinator

23. Receives and reviews financial reports from county offices:

- a. Reviews county expenditures records;
- b. Retains documents of transactions for statistical analysis.

24. Receives the County Human Services Statistical and Financial Report for evaluation and planning.

25. Compiles statistics from EAS County Flex Funds Cumulative Records for evaluation and planning.

26. Alerts Program Specialists of possible problems and assists with corrective action:

- a. Purpose of EAS funds; and
- b. Services authorized.

27. Monitors and evaluates statistical and programmatic reports for the state and individual counties. Performs county case reviews to monitor program compliance.

28. Prepares quarterly reports:

- a. Data analysis;
- b. Trends in placement, prevention, expenditures and services rendered;
- c. Outcome for family due to provision of EAS; and
- d. Recommendations.

732.01 Social Service Block Grant (SSBG) Flex Funds

Revision Number: 08-03, Effective Date: 12/22/2008

Purpose: The following procedure provides guidelines in the use of Social Service Block Grant (SSBG) Flex Funds in conjunction with Appendix Section 761.02. [SSBG funds are to be used to serve:](#)

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

1. Families with children at risk of placement due to child abuse or neglect.
2. Child Protective Services families and families of children in foster care less than six months.
3. Families of children who have been in foster care more than six months where early reunification is possible.
4. Foster families and children in foster care to prevent disruption and/or enable the families to meet special needs of the children.
5. Adoptive families to facilitate the adoption process.

Note: The following procedures are contingent upon the availability of funds.

County Director, Regional Administrator and/or Designee

1. Develops county or regional office plan for utilizing and administering Flex Funds within guidelines and ensures staff compliance. The plan should at a minimum include approval process, fiscal tracking for budget, and documentation in CAPSS. DSS Form 30156 and/or DSS Form 30157 may be used by the county to assist with tracking as part of the county plan.

Social Service Worker

2. Determines, on a case by case basis, that there is a need for Flex Funds:
 - a. rules out Medicaid, private insurance, or other personal or agency funding as source to meet the need;
 - b. determines that the client meets eligibility criteria (**Section 761.02.04**);
 - c. that the client is within Target Group (**Section 761.02.05**); and
 - d. the expenditure will meet one of Flex Funds goals (**Section 761.02.07**).
3. Ensures availability of an approved service that will address the need and is clearly related to the safety threats and /or behavioral changes identified in the case family assessment and treatment plan and will meet one of the goals.
4. Completes an application with the client in face-to-face interview, to include signing DSS Form 3795, Declaratory Statement for non-CPS or Foster Care cases.
5. Staffs the request for funds with immediate supervisor according to county plan for authorization of funds. Provides copy of DSS Form 30156 or other written application to supervisor for sign off as defined by county plan.
6. Completes documentation in CAPSS relative to the economic need of the client if not a CPS or Foster Care client. If CPS or Foster Care client, services are provided without regard to income.

Immediate Supervisor or County Director or Regional Administrator

7. Reviews DSS-30156 or other documentation to ensure Flex Funds eligibility criteria are met (**See Sections 761.02.04, 761.02.05 and 761.02.06**) and that county plan procedures are met.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

8. Signs and dates the Authorization Section IV of the DSS-30156 [or other authorization](#) as defined by the county plan.

Immediate Supervisor

9. Returns [signed authorization](#) to Social Service Worker.

Social Service Worker

10. Follows [established](#) county procedures to request a check from the county bookkeeper.
11. Authorizes Service Code 2000 for client [by completing CAPSS documentation to authorize the service line](#).
NOTE: The head of the family must **always** be the primary client. [The foster child is considered the primary client if the child is in foster care.](#)

County or Regional Office Bookkeeper

12. Processes payment of Flex Funds following instructions in the DSS Manual of County Office Accounting.
13. Reconciles [CAPSS](#) report [of](#) expenditure data with actual expenditures to ensure accuracy and [makes corrections](#) when there is a difference.

County or Regional Office Bookkeeper/Social Service Worker (as specified by county or regional office policy)

14. Records monthly dollars spent for specific approved services (subcodes) [per operating procedures](#).
15. [Provides reports of expenditures to County Director or Regional Administrator per county or regional office plan to ensure fiscal oversight.](#)

Social Service Worker

16. [Provides documentation to county or regional office bookkeeper as required by county or regional office plan for fiscal tracking.](#)
17. [Staffs cases with supervisor to determine if use of funds were instrumental in meeting SSBG goals identified for the client and if the use of the funds clearly supported the family's case plan.](#)
18. [Completes dictation in CAPSS to document the decision to provide Flex Funds for this client, to include but not limited to, the SSBG goal, how this relates to the service plan and expected behavioral changes, and the outcome achieved.](#)

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Purpose: To describe the procedures to be followed when the case must be heard by Family Court for hearings held pursuant to **S. C. Code of Laws, §20-7-736**. **NOTE: Section 718, Referral to the Court**, details procedure to be followed. At any time during the delivery of services, the department may petition the Family Court for authority to intervene and provide protective services without removal of the child.

Social Service Worker

1. In consultation with supervisor, requests DSS attorney to petition Family Court pursuant to **§20-7-736, S. C. Code of Laws**, to consider removal of a child when the department determines by a preponderance of the evidence a child is an abused or neglected child and the child cannot be protected from unreasonable risk of harm to life, physical health or safety or mental well-being. Considers the safety of a child at DJJ who will be returning to the home upon release and if it is appropriate to ask the court for custody of that child. Documents in record this analysis.
2. If the abuse or addiction to drugs or alcohol by the parents or guardians is an issue, refers to §20-7-736(G) for guidance on presumption of child abuse and neglect.

DSS Attorney

3. Ensures that a complaint complying with the requirements of §20-7-736 is completed and filed with the Family Court.

Social Service Worker

4. Completes [Part Two in the Child and Family Assessment and Service Planning tool, DSS Form 30231, for a comprehensive family assessment identifying the family strengths and concerns needing to be addressed and completes Part Three and Part Four to build a treatment plan with the mother and father and with age appropriate children. Plans are individualized for each child based on the assessment/ongoing assessment of child's needs. The case plan should include recommendations from DJJ regarding the incarcerated sibling and the impact on the family assessment.](#) Updates automated system.
5. Prepares a treatment services/placement plan to present to court in anticipation of removal as required by §20-7-764. Ensures that case plan addresses treatment services to include visitation, placement issues and needs of the incarcerated sibling.
6. Upon a finding that the child shall remain in the home and protective services shall continue, modifies the treatment plan:
 - a. to address any immediate danger to the child; and
 - b. services to the parents so that the child is not endangered further. (**Reference §20-7-762, S. C. Code of Laws**).
7. Ensures either plan describes:
 - a. any changes in parental behavior or home conditions which must be made; and

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- b. any services which will be provided to the family to ensure that the child will not be endangered, to include, visitation, placement issues and needs of the incarcerated sibling.
8. Reviews the treatment plan with the CPS supervisor to specifically consider goals, objectives, services and expected outcomes which are designed to alleviate any danger to the child and to aid the parent to prevent further abuse.

Social Service Worker/DSS Attorney

9. If changes to the plan are made by the court, submits the revised plan according to the time table ordered by the court but no later than seven days (**Reference §20-7-764**) and ensures compliance with requirements of **§20-7-764, S.C. Code of Laws (See Section 750, - S. C. Code of Laws)**. Updates automated system.

Social Service Worker

10. Completes or updates the initial individual comprehensive family assessment and child assessment/case plan prior to any subsequent court intervention which may be required.

Social Service Worker

11. Upon a finding by Family Court that the child must be removed from the home, places the child in accordance with the order of the court and requirements of law and policy. (Reference Chapter 8, Permanency Planning Manual.)

Social Service Worker/DSS Attorney

12. Presents to the court the Placement Plan as required by §20-7-764. (**Reference §20-7-764, S. C. Code of Laws**).
13. Notifies DJJ of family court findings in cases involving same child served by both agencies.
14. Updates case activities in automated system.

733.01 Hearings to Compel Services

Revision Number: 04-04, Effective Date: 08/17/2004

Purpose: To describe the procedures to be followed when the case must be heard by Family Court for hearings pursuant to **S. C. Code of Laws, §20-7-738**. **Note:** At any time during the delivery of services, the department may petition the Family Court for authority to intervene and provide protective services without removal of the child.

Social Service Worker

1. In consultation with supervisor and all involved service providers, decides whether to initiate a court proceeding (**See Reference Data - Section 769, Child Protective Services and the Court**).

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

DSS Attorney

2. Petitions Family Court for a hearing to be held within thirty-five days pursuant to **§20-7-738, S. C. Code of Laws**.
3. Completes complaint with a full description of the department's basis for believing that the child cannot be protected adequately without intervention as required in §20-7-738(B).

Social Service Worker

4. Completes the initial comprehensive and child assessment/ongoing assessment of child's need/case plan prior to court intervention and updates the initial comprehensive family assessment and child assessment/case plan (**See Reference Data - Section 730, Family Assessment**). Updates the dictation on automated system.
5. Reviews the treatment plan with the CPS supervisor to specifically consider goals, objectives, services and expected outcomes which are designed to alleviate danger to the child and to aid the parent to prevent further abuse and updates the Case Plan - Treatment Services as appropriate.

Social Service Supervisor

6. Consults with the department's legal representative.

Social Service Supervisor

7. Reviews complaint and other documents which support the department's position.
8. Provides support and assistance to the worker in preparing court case.

DSS Attorney

9. Presents to the court at the hearing the department's rationale for believing that intervention must be ordered.
10. Presents to the court at the hearing, a copy of the Case Plan - Treatment Services screen, or appropriate equivalent which includes:
 - a. the identified goals and objectives to bring about changes in the parents' behavior or home condition which must be made to reduce risk;
 - b. the anticipated time frames;
 - c. services to be provided;
 - d. involvement of the parents, child, [sibling placed in alternative placements such as incarcerated at DJJ](#) and other service providers in the preparation of the case plan - treatment services; and any other considerations regarding the process;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Note: If the court orders revision to the plan, the revised plan must be submitted to the court within two weeks (**Reference §20-7-762, S. C. Code of Laws**). [Notifies DJJ of the court ordered revisions to treatment plan.](#)

Social Service Worker

11. Provides the CPS supervisor with information as to the status of all case reviews, the findings and the subsequent decisions.

Social Service Worker

12. Documents all consultation in automated system to include dates, times, relevant issues and decisions.

DSS Attorney

13. Schedules a review hearing at least once every twelve months and/or as court ordered to determine if services continue to be needed.

Social Service Worker

14. [Notifies involved service providers, including DJJ staff, of pending hearings. Obtain status of incarcerated sibling including an updated assessment, services provided, changes in behavior, parental participation and recommendations regarding integrating the child back into the family. Coordinates staffing to ensure consensus on recommendations to family court with appropriate follow-up. \(See Section 733.02, Judicial Review Hearings\).](#)
15. Terminates protective services:
 - a. when court orders an end to court jurisdiction; or
 - b. automatically at eighteen months unless an extension of services is ordered by the court. (**See §20-7-762, S. C. Code of Laws**).
 - c. If case closure is appropriate, closes case on automated system and documents any other actions on automated system. Reference CAPSS Handbook.

Note: [Notifies service providers, including DJJ, of case closure.](#)

733.02 Judicial Review Hearings

Revision Number: 04-04, Effective Date: 08/17/2004

Purpose: To describe the procedures to be followed when the case must be reviewed by Family Court for Review Hearings pursuant to **S. C. Code of Laws, §20-7-762**, which follows hearings held pursuant to **§20-7-738 or §20-7-736** when the child is to remain in the home and protective services are to continue.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Social Service Worker

1. Requests DSS legal representative to schedule a hearing within twelve months of the original action, or as dictated by the needs of the family, or as the court orders subsequent to a §20-7-738 or §20-7-736 hearing to establish whether the conditions which required the initial intervention continue to exist.

Note: If conditions do not exist, the court will terminate protective services and court jurisdiction will end.

2. Provides the CPS supervisor with information regarding the status of all case reviews, the findings and the subsequent decisions, [to include recommendations from service providers including DJJ regarding a sibling incarcerated at their facility.](#)
3. Documents all consultation in the case record to include dates, times, relevant issues and decisions on the automated system. Updates automated system.
4. Contacts DSS local legal representative to schedule a review hearing at least once every twelve months to determine if services continue to be needed.

DSS Attorney

5. Provides information to the court as required by §20-7-762.

Social Service Worker/Supervisor/DSS Attorney

6. If the department assesses the need to continue services past 18 months, obtains in a court order prior to expiration of 18 months, a finding that there is clear and convincing evidence that the child is threatened with harm without continued services.

Social Service Worker

7. Terminates protective services as specified by the family court or upon termination of jurisdiction.
8. If case closure is appropriate, closes on automated system as required by the automated system guide, Chapter 3-23 and document any other actions on automated system. [Notifies all professionals providing services, to include DJJ, when a sibling is incarcerated, of case closure.](#)

734

Case Plan - Treatment Services

Revision Number: 05-01, Effective Date: 11/03/2005

Purpose: To outline actions to be taken to evaluate the department's efforts to assist the family and/or family network to reduce the risk factors which contributed to the abuse and/or neglect and the progress toward enabling the family to provide a safe environment for their children without the involuntary services of DSS.

Social Service Worker

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

1. Using the Child and Family Assessment and Service Planning tool, completes a review of case plan for treatment services at a minimum of every six months or when significant events occur, updates the initial comprehensive family assessment/ child assessment/ongoing assessment of child's need/case plan and updates the case plan for treatment services. Reviews and evaluates the plan at three months for high risk situations until risk has been reduced, then every six months.

Note: A review and evaluation of a case means to consider whether the services planned and delivered address the concerns identified and have the effect of reducing the likelihood of future risk and have improved the immediate safety for the child.

2. Measures the goals and achievement criteria against those in the original treatment plan to determine the level of progress.
3. Consults with the family (both mother and father and age appropriate children and significant others as identified by the family), supervisor, clients and other professionals in evaluating and determining progress. Presents case as needed and appropriate to multidisciplinary teams for assistance.
4. Makes home visit to discuss with the client the decision to continue the original plan or alter the plan with each evaluation.
5. Considers whether or not to involve the court or greatly revise the case plan if no progress has been made and it appears no progress will be made.
6. Discusses recommended changes in plan with supervisor for approval.
7. Completes update of the treatment plan, initial comprehensive family assessment and case evaluation summary form. Note: Print copy of the treatment plan for signatures and provide copy to client.
8. Documents review finding on automated system.
9. If a family moves out of the state and has an open treatment case, assesses the motive for the move and its impact on the safety of children in the home and:
 - a. notifies all involved parties in South Carolina to include, but not limited to, guardian ad litem, family court, and law enforcement, of the change in circumstances;
 - b. notifies, by telephone, the state/ jurisdiction to which the family moved of the case situation, the level of risk and need for services;
 - c. follows up with written information to include, but not limited to, case summary, court orders and law enforcement reports.
10. Staffs possible case closure with immediate supervisor and documents staffing on the automated system. Completes a safety assessment in Part One of the CFASP to consider if safety is still a concern. Completes the Family Strengths and Risk Assessment tool to determine if the level of risk of future harm has been reduced to support closing the case.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

11. Considers issues of closure specific to a case where a child is living with an alternative caregiver. A case should not be closed solely based on the alternative living arrangement, rather on the movement by the parents to change the circumstances that led to the abuse or neglect and the alternative living arrangement. If the parents cannot make the changes necessary to ensure the child's safety, family court involvement is required to determine the child's permanent living arrangements. The agency must not leave a child in a temporary alternative living arrangement but must bring the family to closure on the issues that brought the family to the agency's attention.

12. Conducts home visit to discuss case closure with client. Discusses closure with other service providers.

13. Closes the case or moves toward closure when:

- a. the parents/family have made progress to the extent that the child is no longer at a level of risk requiring state intervention and the parents are providing minimum care; or
- b. the family has made inconsistent, little, or no progress, there is not reason to believe that they will, **but** there is little risk to the child; or
- c. there is not sufficient evidence to take the matter to court, the parent refuses further services, and there is little risk to the child; or
- d. the agency has lost contact with the clients or the clients have died; or
- e. the current problems are not of a child protective services nature; or
- f. Judicial Order directs the case to be closed.

Social Service Supervisor

14. Approves or disapproves case closure; or

15. Offers worker alternatives in continuing work with the family.

DSS Attorney

16. Brings the case to court for review for closure if the case is under the jurisdiction of the court and if prior court orders do not authorize closure without further review.

Social Service Worker

17. Documents case closure on the automated system as required by the automated system guide, Chapter 3-23.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Purpose: To guide the process of evaluating the appropriateness of the decision to request the return home of a child following the probable cause (72 hour) and merits (35 day) hearing.

Social Service Worker

1. In consultation with supervisor, reexamines the [safety threats](#) which existed when the child was removed, identifying the specific factors which contributed to the [threat](#), to determine the [child's safety](#) and the degree to which the likelihood of future risk has been reduced. Completes a safety assessment to document the reducing of threats to the child's safety.
2. Determines if, and to what extent, the risk factors have subsided and how the reduction in risk was achieved.
3. Identifies new strengths and controls developed by the family and considers impact on the child and on the family functioning.
4. Explores attitudes, concerns and desires for restored parent-child contact.
5. Assesses the nature of the parent-child contact during placement if contact has occurred.
6. Assesses the effects of return on the child, the family, and the continuing treatment plan.
7. Consults with the supervisor, DSS Attorney, other participating professionals, the foster parents, guardian ad litem, and the placement committee regarding return of the child.
8. Arranges a face to face staffing of all involved parties for cases originally or subsequently assessed to be high risk prior to closure.
9. Documents activity in automated system. Uses DSS-3062 when other participants' signatures are needed, files copy in paper file.

Social Service Supervisor

10. Reviews the case.
11. Participates with the placement committee to make recommendations as to continued status of the child.
12. Provides consultation to worker regarding additional treatment strategies to be used with the family if placement committee recommends continued placement.

Social Service Worker

13. Documents process in automated system and updates CAPSS/CPSLEGAL as appropriate.

736 Death of a Child

Revision Number: 04-04, Effective Date: 08/17/2004

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Purpose: To set forth procedures to guide action when the department has reason to believe or receives a report that any child has died as a result of child abuse or neglect, or that a child has died while receiving agency services. **(Reference §20-7-520, S. C. Code of Laws; and the Department's Protocol for Cases Involving Child Deaths).**

Social Service Supervisor

1. Immediately reports the death to the appropriate medical examiner or coroner **(See Section 751, Reference Data - S.C. Code of Laws, §20-7-520).**

County Director or Designee

2. Analyzes the information to assess risk to other children in the household or facility and to determine additional actions necessary.
 - a. If the child is known to DSS, as defined in the Child Death Protocol, ensures that notification and record security procedures in the Protocol are followed.
 - b. If there are allegations that the child's death was related to abuse and/or neglect by a foster parent, or an employee or caregiver of a public or private residential home, institution, or agency, [or child care facility](#), immediately makes a referral to the State Office Out of Home Abuse and Neglect Unit for the purpose of investigation.
 - c. If there are allegations that the child's death was related to abuse and/or neglect by any other "person responsible for the child's welfare", immediately makes a referral to the CPS Intake Office or to the appropriate county office for the purpose of investigation.

Social Service Worker

3. Investigates reports of abuse and neglect which resulted in the death of a child when there are other children in the home, a resident of the home is pregnant or the alleged perpetrator is a person responsible for another child regardless of whether that child lives in the home. If the death is determined to be abuse/neglect related, pursues order in family court to place name of perpetrator on Central Registry (Reference §20-7-650).

OHAN Investigator

4. [Investigates all deaths in out of home setting which are suspected to be related to abuse and neglect by caregiver and coordinates with law enforcement.](#)

Social Service Worker

5. Notifies the appropriate law enforcement agency of the facts indicating a violation of criminal law **(See Section 750, Reference Data - S. C. code of Laws, §20-7-650).**
6. Immediately reviews department records to determine prior involvement.
7. Contacts the Office of General Counsel, Special Investigations, telephone number (803) 898-7673, within one working day after learning of [a](#) death to provide relevant information regarding the death and the

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

process being followed. Notice must be provided to Special Investigations whether or not the death is believed to fall within the Child Death Protocol. The Office of General Counsel will notify the State Director, CPS and others as appropriate.

Special Investigations Unit

8. Contacts county as described in Child Death Protocol and notifies CPS Division.

CPS Technical Assistance

9. In the event of a death in an open case Staff where there is an allegation of abuse and/or neglect, provides technical assistance to county staff as needed.
10. Provides technical assistance as needed on a case by case basis for deaths in other situations (i.e. closed CPS, other Human Services and Economic Services cases).

Social Service Worker/Supervisor

11. Shares with the coroner and law enforcement appropriate case information on the current situation and the department's past involvement with the family, if any. [Notifies DJJ of the death of a child in an open case where there is an allegation of abuse and/or neglect and a sibling is incarcerated to coordinate services to family.](#)

Social Service Worker

12. If an autopsy has been initiated:
 - a. requests that the coroner keep DSS informed of the preliminary and final reports from the pathologists;
 - b. offers to assist the coroner in obtaining any court orders that may be necessary to prevent a burial before the performance of the autopsy.
13. Documents in **dictation** the decisions of law enforcement and/or Solicitor's Office and any other action concerning the case.
14. [Obtains copies of all final reports such as coroner's report, autopsy, and death certificate records from the coroner's office.](#)

All Staff

15. Cooperates with the State Law Enforcement Division - Department of Child Fatalities, to provide information and access to any department records concerning the child (**See Section 750, Reference Data - S. C. Code of Laws, §20-7-5915**).
16. Refers inquiries by the press to the [Office of General Counsel](#).

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Note: In addition to this action, county staff shall immediately advise the county director of all inquiries by the press.

737 Use of Volunteers

Revision Number: 03-01, Effective Date: 09/04/2003

Purpose: To provide guidance in instances where volunteers are being used to augment agency services. Coordinate with Volunteer Services the arranging for and clearance of volunteers. **(Reference Data - Section 750, S. C. Code of Laws, §20-7-690).**

Social Service Worker/Volunteer Coordinator

1. Provides an appropriate orientation to all volunteers, including an explanation of matters involving confidentiality. **(Reference §20-7-690, S. C. Code of Laws).** Reviews with volunteer this statement of confidentiality.

Social Service Worker

2. Shares information with the volunteer which is pertinent to their involvement with the case.
3. Involves the volunteer in staffings as appropriate in order to assure that their involvement with the client continues to be supportive of the treatment plan.
4. Gathers information, observations, and documentation regarding volunteer's activities with the family and analyzes its impact on the case plan.
5. Documents activities relating to a case in [automated system](#).

Social Service Supervisor

6. Offers the volunteer needed support and guidance.

738 Referrals to Child Support Enforcement Division and Establishing Paternity in Child Abuse and Neglect Hearings

Revision Number: 03-01, Effective Date: 09/04/2003

Purpose: To reference procedures to be followed by child protective services staff in consultation with the DSS Attorney when a child is removed and child support is sought or to establish paternity when the issue is raised in child abuse and neglect court proceedings.

Social Service Worker/DSS Attorney

1. At the point that custody of a child has been requested, [makes child support referral, DSS 2738, within two days of entry into care and utilizes the Office of Child Support Enforcement Guidelines in court recommendations.](#)

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

2. In cases where paternity is questioned in child abuse and neglect proceedings, [contacts the Office of Child Support Enforcement to determine if child's case is already on file and if paternity has already been established. If paternity not yet established, consults with the Office of Child Support Enforcement in getting needed testing.](#)

750 Children's Code Reform Act of 1996
Revision Number: 08-02, Effective Date: 07/31/2008

Section

- 20-7-50. Unlawful Conduct Towards a Child.
- 20-7-70. Cruelty to children.
- 20-7-85. Safe Haven for Abandoned Babies Act.
- 20-7-95. Parental Immunity in cases of Incurability of Seventeen Year Olds.
- 20-7-110. Legal Representation of a Child.
- 20-7-121. Guardian ad Litem Program; Reports and Disclosure of Information.
- 20-7-122. Responsibilities of Duties of Guardian ad Litem.
- 20-7-123. Person Prohibited from Appointment as Guardian ad Litem.
- 20-7-124. Duties of Guardian ad Litem.
- 20-7-125. Reports and Disclosure of Information.
- 20-7-126. Confidentiality of Records and Information; Penalties.
- 20-7-127. Immunity from Liability.
- 20-7-129. Funds.
- 20-7-290. Certain Health Services May Be Rendered to Minor of Any Age Without Consent of Parent or Guardian.
- 20-7-420. Family Court Jurisdiction
- 20-7-480. General Provisions.
- 20-7-490. Definitions.
- [20-7-495. Children's Advocacy Centers](#)
- 20-7-500. Persons or Families Needing Assistance Encouraged to Seek It.
- 20-7-505. Law Enforcement Reporting of Domestic Violence.
- 20-7-510. Persons to Report.
- 20-7-520. Mandatory Reporting to Medical Examiner or Coroner; Postmortem Examinations.
- 20-7-530. Photographs and X-rays.
- 20-7-540. Immunity from Liability for Mandated Reporters.
- 20-7-545. Immunity from Civil and Criminal Liability for DSS Employees, Volunteers, Other Officials Who Acted in Good Faith..
- 20-7-550. Abrogation of Privileged Communication.
- 20-7-560. Penalties.
- 20-7-567. Misdemeanor to Knowingly Make a False Report of Abuse or Neglect; Penalties.
- 20-7-570. Civil Liability for Persons Who Make Reports in Bad Faith or Maliciously.
- 20-7-610. Emergency Physical or Protective Custody; Placement; Investigation; Court Orders.
- 20-7-612. Removal Authority of Law Enforcement Officers.
- 20-7-616. Department Access to Sex Offenders Registry.
- 20-7-618. Medical Professional Detaining Child.
- 20-7-635. Temporary Crisis Homes, Facilities; Placement; Screening.
- 20-7-640. Duties of the Department of Social Services.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- 20-7-645. Hearing notices required.
- 20-7-650. Intervention By Child Welfare Agencies.
- 20-7-652. Medical Neglect; Religion.
- 20-7-655. Appeals Process.
- 20-7-660. Information, Training, Publicity.
- 20-7-670. Out of Home Abuse and Neglect Investigations.
- 20-7-680. Central Registry.
- 20-7-690. Confidentiality of Reports and Records, Penalties.
- 20-7-695. Retention and Disclosure of Information in Unfounded Case Records.
- 20-7-736. Removal Proceedings and Procedures; Constitution of Abuse of Newborn Child.
- 20-7-738. Protective Services While Child Remains in Home.
- 20-7-762. Court Approval and Review of Treatment Plans.
- 20-7-763. Specifications for "reasonable efforts"; when required; termination of.
- 20-7-764. Removal and Court Approved Placement Plan After Removal.
- 20-7-765. Treatment Plan Requirements Regarding Substance Abuse.
- 20-7-766. Permanency Planning and Court Review.
- 20-7-767. Duties of the Department.
- 20-7-768. Standard for initiating termination of parental rights, exceptions.
- 20-7-770. Status reports on pending cases.
- 20-7-775. Disclosure of Information to Foster Parents.
- 20-7-1515. Child's preference for custody to be considered.
- 20-7-1530. Evidence of Domestic Violence to be Considered in Determining Custody.
- 20-7-1557. Visitation in domestic violence cases.
- 20-7-1560. Procedures, Termination of Parental Rights.
- 20-7-1562. Family Court Jurisdiction.
- 20-7-1564. DSS Authority to Petition for Termination of Parental Rights.
- 20-7-1566. Termination of Parental Rights' Petition.
- 20-7-1568. Summons, Petitions, Termination of Parental Rights.
- 20-7-1570. Legal Representation; Termination of Parental Rights Proceedings.
- 20-7-1572. Termination of Parental Rights; Failure to Support; Failure to Complete Treatment.
- 20-7-1574. Permanency Planning; Hearings.
- 20-7-1576. Termination of Legal Rights; Inheritance.
- 20-7-1578. Prompt Judicial Proceedings in the Best Interest of Child.
- 20-7-1580. Confidentiality of Information; Records.
- 20-7-1582. Effect on Adoption Laws.
- 20-7-1630. Relative Placement, Benefits and Licensing Assistance
- 20-7-1635. Placement of certain juvenile offenders prohibited in foster care; exception.
- 20-7-1640. FBI Fingerprinting of Foster Parent Applicants, 18 Years and Older Persons Residing in Home.
- 20-7-1642. Foster Care Placement With Certain Person Prohibited.
- 20-7-1670. Exceptions to whom may petition for adoption; providing hearings for violations.
- 20-7-2275. Kinship Foster Care Program Established.
- 20-7-2376. Functions and Powers of Local Foster Care Review Boards.
- 20-7-2377. Foster Care Review Board to Participate in Judicial Reviews.
- 20-7-2379. Foster Care Review Board; Duties and Procedures, Including Judicial Review.
- 20-7-5655. Confidentiality of Continuum of Care Records; Information.
- Section 21. Severability Clause.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Unlawful conduct towards a child.

Section 20-7-50. (A) It is unlawful for a person who has charge or custody of a child, or who is the parent or guardian of a child, or who is responsible for the welfare of a child as defined in Section 20-7-490(5) to:

- (1) place the child at unreasonable risk of harm affecting the child's life, physical or mental health, or safety;
- (2) do or cause to be done unlawfully or maliciously any bodily harm to the child so that the life or health of the child is endangered or likely to be endangered; or
- (3) willfully abandon the child.

(B) A person who violates subsection (A) is guilty of a felony and for each offense, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both.

Cruelty to children

Section 20-7-70. Whoever cruelly ill-treats, deprives of necessary sustenance or shelter, or inflicts unnecessary pain or suffering upon a child or causes the same to be done, whether the person is the parent or guardian or has charge or custody of the child, for every offense, is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not more than two hundred dollars, at the discretion of the magistrate.

The Safe Haven for Abandoned Babies Act.

Section 20-7-85. (A) A safe haven must, without a court order, take temporary physical custody of an infant who is voluntarily left with the safe haven by a person who does not express an intent to return for the infant and the circumstances give rise to a reasonable belief that the person does not intend to return for the infant. If the safe haven is a hospital or hospital outpatient facility, the hospital or hospital facility shall perform any act necessary to protect the physical health or safety of the infant; any other safe haven shall, as soon as possible, but not later than six hours after receiving an infant, transport the infant to a hospital or hospital outpatient facility. The person leaving the infant is not required to disclose his or her identity; however, the person must leave the infant in the physical custody of a staff member or employee of the safe haven.

(B)(1) The safe haven must offer the person leaving the infant information concerning the legal effect of leaving the infant with the safe haven.

(2) The safe haven must ask the person leaving the infant to identify any parent of the infant other than the person leaving the infant with the safe haven. The safe haven also must attempt to obtain from the person information concerning the infant's background and medical history as specified on a form provided by the Department of Social Services. This information includes, but is not limited to, information concerning the use of a controlled substance by the infant's mother, provided that information regarding the use of a controlled substance by the infant's mother is not be admissible as evidence of the unlawful use of a controlled substance in any court proceeding. The safe haven shall give the person a copy of the form and prepaid envelope for mailing the form to the Department of Social Services if the person does not wish to provide the information to the safe havens. These materials must be provided to safe havens by the department.

(3) Any identifying information disclosed by the person leaving the infant must be kept confidential by the safe haven and disclosed to no one other than the department. However, if a court determines that the immunity provisions of subsection (H) do not apply, the safe haven may disclose the information as permitted by confidentiality protections applicable to records of the safe haven. The department shall maintain confidentiality of this information in accordance with Section 20-7-690.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(C) Not later than the close of the first business day after the date on which a hospital or hospital outpatient facility takes possession of an infant pursuant to subsection (A)), the hospital or hospital outpatient facility shall notify the department that it has taken temporary physical custody of the infant. The department has legal custody of the infant immediately upon receipt of the notice. The department shall assume physical control of the infant as soon as practicable upon receipt of the notice, but no later than twenty-four hours after receiving notice that the infant is ready for discharge from the hospital or hospital outpatient facility. Assumption of custody by the department pursuant to this subsection does not constitute emergency protective custody, and the provisions of Section 20-7-610 do not apply. The department is not required to initiate a child protective services investigation solely because an infant comes into its custody under this subsection.

(D) Immediately after receiving notice from a hospital or hospital outpatient facility pursuant to subsection (C), the department shall contact the South Carolina Law Enforcement Division for assistance in assuring that the infant is not a missing infant. The South Carolina Law Enforcement Division shall treat the request as ongoing for a period of thirty days and shall contact the department if a missing infant report is received that might relate to the infant.

(E)(1) Within forty-eight hours after taking legal custody of the infant, the department shall publish notice, in a newspaper of general circulation in the area where the safe haven that initially took the infant is located, and send a news release to broadcast and print media in the area. The notice and the news release must state the circumstances under which the infant was left at the safe haven, a description of the infant, and the date, time, and place of the permanency planning hearing provided for in subsection (E)(2). The notice and the news release must also state that any person wishing to assert parental rights in regard to the infant must do so at the hearing. If the person leaving the infant identified anyone as being a parent of the infant, the notice must be sent by certified mail to the last known address of the person identified as a parent at least two weeks prior to the hearing.

(2) Within forty-eight hours after obtaining legal custody of the infant, the department shall file a petition alleging that the infant has been abandoned, that the court should dispense with reasonable efforts to preserve or reunify the family, that continuation of keeping the infant in the home of the parent or parents would be contrary to the welfare of the infant, and that termination of parental rights is in the best interest of the infant. A hearing on the petition must be held no earlier than thirty and no later than sixty days after the department takes legal custody of the infant. This hearing is the permanency planning hearing for the infant. If the court approves the permanent plan of termination of parental rights, the order must also provide that a petition for termination of parental rights on the grounds of abandonment must be filed within ten days after receipt of the order by the department.

(F) The act of leaving an infant with a safe haven pursuant to this section is conclusive evidence that the infant has been abused or neglected for purposes of Department of Social Services' jurisdiction and for evidentiary purposes in any judicial proceeding in which abuse or neglect of an infant is an issue. It is also conclusive evidence that the requirements for termination of parental rights have been satisfied as to any parent who left the infant or acted in concert with the person leaving the infant.

(G) A person who leaves an infant at a safe haven or directs another person to do so, must not be prosecuted for any criminal offense on account of such action if:

- (1) the person is a parent of the infant or is acting at the direction of a parent;
 - (2) the person leaves the infant in the physical custody of a staff member or an employee of the safe haven;
- and
- (3) the infant is not more than thirty days old or the infant is reasonably determined by the hospital or hospital outpatient facility to be not more than thirty days old.

This subsection does not apply to prosecution for the infliction of any harm upon the infant other than the harm inherent in abandonment.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(H) A safe haven and its agents and any health care professionals practicing within a hospital or hospital outpatient facility, are immune from civil or criminal liability for any action authorized by this section, so long as the safe haven, or health care professional complies with all provisions of this section.

(I) The department, either alone or in collaboration with any other public entity, shall take appropriate measures to achieve public awareness of the provisions of this section.

(J) For the purposes of this section:

(1) 'infant' means a person not more than thirty days old; and

(2) 'safe haven' means a hospital or hospital outpatient facility, a law enforcement agency, a fire station, an emergency medical services station, or any staffed house of worship during hours when the facility is staffed.

(K) Annually the department shall submit a report to the General Assembly containing data on infants who come into the custody of the department pursuant to this section. The data must include, but is not limited to, the date, time, and place where the infant was taken, the health of the infant at the time of being admitted to the hospital, disposition and placement of the infant, and, if available, circumstances surrounding the infant being left at the safe haven. No data in the report may contain identifying information."

Parental immunity in cases of incorrigibility of seventeen-year-olds

Section 20-7-95. A parent, guardian, or other person responsible for the care and support of a child may not be charged with unlawful neglect of a child, cruelty to a child, failure to provide reasonable support of a child, or a similar offense based on the exclusion from the home of a seventeen-year-old child where there is a demonstrable record that the child is incorrigible (beyond the control of parents).

Legal counsel and guardians ad litem required in child abuse proceedings

Section 20-7-110. In all child abuse and neglect proceedings:

(1) Children must be appointed legal counsel and a guardian ad litem by the family court. Counsel for the child in no case may be the same as counsel for the parent, guardian, or other person subject to the proceeding or any governmental or social agency involved in the proceeding.

(2) Parents, guardians, or other persons subject to any judicial proceeding are entitled to legal counsel. Those persons unable to afford legal representation must be appointed counsel by the family court.

(3) The interests of the State and the Department of Social Services must be represented by the legal representatives of the Department of Social Services in any judicial proceeding.

Guardian ad Litem Program; reports and disclosure of information; funding

Section 20-7-121. There is created the South Carolina Guardian ad Litem Program to serve as a statewide system to provide training and supervision to volunteers who serve as court-appointed special advocates for children in abuse and neglect proceedings within the family court, pursuant to Section 20-7-110. This program must be administered by the Office of the Governor.

Section 20-7-122. The responsibilities and duties of a guardian ad litem are to:

- (1) represent the best interests of the child;
- (2) advocate for the welfare and rights of a child involved in an abuse or neglect proceeding;
- (3) conduct an independent assessment of the facts, the needs of the child, and the available resources within the family and community to meet those needs;
- (4) maintain accurate, written case records;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(5) provide the family court with a written report, consistent with the rules of evidence and the rules of the court, which includes without limitation evaluation and assessment of the issues brought before the court and recommendations for the case plan, the wishes of the child, if appropriate, and subsequent disposition of the case;

(6) monitor compliance with the orders of the family court and to make the motions necessary to enforce the orders of the court or seek judicial review;

(7) protect and promote the best interests of the child until formally relieved of the responsibility by the family court.

Section 20-7-123. No person may be appointed as a guardian ad litem for a child in an abuse or neglect proceeding who has been convicted of any crime listed in Chapter 3 of Title 16, Offenses Against the Person, in Chapter 15 of Title 16, Offenses Against Morality and Decency, in Article 3 of Chapter 53 of Title 44, Narcotics and Controlled Substances, or for the crime of contributing to the delinquency of a minor, provided for in Section 16-17-490.

Section 20-7-124. (A) The guardian ad litem is charged in general with the duty of representation of the child's best interests. After appointment by the family court to a case involving an abused or neglected child, the guardian ad litem shall receive appropriate notice of all court hearings and proceedings regarding the child. The obligation of the guardian ad litem to the court is a continuing one and continues until formally relieved by the court.

(B) The guardian ad litem is authorized to:

(1) conduct an independent assessment of the facts;

(2) confer with and observe the child involved;

(3) interview persons involved in the case;

(4) participate on any multidisciplinary evaluation team for the case on which the guardian ad litem has been appointed;

(5) make recommendations to the court concerning the child's welfare;

(6) make motions necessary to enforce the orders of the court, seek judicial review, or petition the court for relief on behalf of the child.

(C) The guardian ad litem is authorized through counsel to introduce, examine, and cross-examine witnesses in any proceeding involving the child and participate in the proceedings to any degree necessary to represent the child adequately.

Section 20-7-125. All reports made and information collected as described in Section 20-7-690(A) must be made available to the guardian ad litem by the Department of Social Services. Upon proof of appointment as guardian ad litem and upon the guardian ad litem request, access to information must be made available to the guardian ad litem by the appropriate medical and dental authorities, psychologists, social workers, counselors, schools, and any agency providing services to the child.

Section 20-7-126. (A) All reports and information collected pursuant to this subarticle maintained by the Guardian ad Litem Program are confidential except as provided for in Section 20-7-690(C). A person who disseminates or permits the unauthorized dissemination of the information is guilty of contempt of court and, upon conviction, may be fined or imprisoned, or both, pursuant to Section 20-7-1350.

(B) The name, address, and other identifying characteristics of a person named in a report determined to be judicially unfounded must be destroyed one year from the date of the determination. The name, address, and other identifying characteristics of any person named in a report determined to be judicially indicated must be

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

destroyed seven years from the date that the guardian ad litem formally is relieved of responsibility as guardian ad litem by the family court.

(C) The Director of the Guardian ad Litem Program or the director's designee may disclose to the media information contained in child protective services records if disclosure is limited to discussion of the program's activities in handling the case. The program may incorporate into its discussion of the handling of the case any information placed in the public domain by other public officials, a criminal prosecution, the alleged perpetrator or the attorney for the alleged perpetrator, or other public judicial proceedings. For purposes of this subsection, information is considered 'placed in the public domain' when it has been reported in the news media, is contained in public records of a criminal justice agency, is contained in public records of a court of law, or has been the subject of testimony in a public judicial proceeding.

Section 20-7-127. After participating in the training program of the Guardian ad Litem Program, a person who is appointed to serve as guardian ad litem and serves without compensation is not liable for any civil damages for any personal injury as a result of any act or omission by the person in the discharge of the responsibilities of a guardian ad litem if the person acts in good faith and is not guilty of gross negligence.

Section 20-7-129. The General Assembly shall provide the funds necessary to carry out the provisions of Sections 20-7-121 through 20-7-127 and 20-7-690(B)(5).

Section 20-7-290. Health services of any kind may be rendered to minors of any age without the consent of a parent or legal guardian when, in the judgement of a person authorized by law to render a particular health service, such services are deemed necessary unless such involves an operation which shall be performed only if such is essential to the health or life of such child in the opinion of the performing physician and a consultant physician if one is available.

Section 20-7-420. The family court shall have exclusive jurisdiction:

(1) To hear and determine matters which come within the provisions of the Uniform Reciprocal Enforcement of Support Act.

(2) To hear and determine actions: For divorce a vinculo matrimonii, separate support and maintenance, legal separation, and in other marital litigation between the parties, and for settlement of all legal and equitable rights of the parties in the actions in and to the real and personal property of the marriage and attorney's fees, if requested by either party in the pleadings.

(3) To hear and determine actions for and related to the adoption of children and adults.

(4) To hear and determine actions for termination of parental rights, whether such action is in connection with an action for adoption or apart therefrom.

(5) To hear and determine actions to determine the validity of marriages.

(6) To hear and determine actions for the annulment of marriage.

(7) To hear and determine actions to determine the paternity of an individual. The action may be brought in the county in which the child or the alleged father resides, or is found, or, if the father is deceased, in the county in which proceedings for probate of his estate have been or could be commenced.

(8) To hear and determine actions for changing names, whether in connection with a divorce or a separate support and maintenance action or apart therefrom.

(9) To hear and determine actions for the correction of birth records.

(10) To consent to the enlistment of a minor in the military service or the employment of a minor, if a minor has no one standing in loco parentis to do so.

(11) To hear and determine proceedings within the county to compel the support of a spouse or child, whether legitimate or illegitimate.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(12) For the protection, guardianship and disposition of neglected or dependent minors in proceedings properly brought before it for the support of a spouse or child.

(13) In all cases or proceedings within the county against persons charged with failure to obey an order of the court made pursuant to authority conferred by law.

(14) To order support of a spouse or child, or both, irrespective of whether they are likely to become a public charge.

(15) To include in the requirements of an order for support the providing of necessary shelter, food, clothing, care, medical attention, expenses of confinement, both before and after the birth, the expense of educating his or her child and other proper and reasonable expenses.

(16) To require of persons legally chargeable with the support of a spouse or child, who are possessed of sufficient means or who are able to earn such means, the payment weekly, or at other fixed periods, of a fair and reasonable sum for such support, or as a contribution toward such support, according to the means of the persons so chargeable.

(17) To make all orders for support run until further order of the court, except that orders for child support run until the child is eighteen years of age or until the child is married or becomes self-supporting, as determined by the court, whichever occurs first or to provide for child support past the age of eighteen years if the child in high school and is making satisfactory progress toward completion of high school, not to exceed the nineteenth birthday unless exceptional circumstances are found to exist or unless there is a preexisting agreement or order to provide for child support past the age of eighteen years; and in the discretion of the court, to provide for child support past age eighteen where there are physical or mental disabilities of the child or other exceptional circumstances that warrant the continuation of child support beyond age eighteen for as long as the physical or mental disabilities or exceptional circumstances continue.

(18) To make an order for support of a husband or wife and children by his or her spouse, even though he or she may have left the home, in cases where the spouse's conduct or condition or his or her cruel or inhuman behavior made it unsafe or improper for the deserting spouse to continue to live with him or her.

Such orders may require either spouse or any other party to the proceeding:

(A) To stay away from the home or from the other or either spouse or children;

(B) to permit either spouse to visit the children at stated periods;

(C) To abstain from offensive conduct against the other spouse or either of them, or against the children;

(D) To give proper attention to the care of the home;

(E) To refrain from acts of commission or omission that tend to make the home not a proper place for the other, or either spouse, or the children.

(19) In furtherance of the complete disposition of cases in the jurisdiction of the court, to bring in and make parties to any proceedings pending in the court any person or persons charged with or alleged to be interfering with the marital relationship between a husband and wife, in violation of the law or the rights of either party to the marriage, or whose presence to the proceedings may be found necessary to a complete determination of the issues therein, or the relief to which the parties thereto, or any of them, may be entitled; and shall have the power to enjoin and restrain such interference and to punish for contempt of court violations of such injunctions or restraining orders.

(20) To award the custody of the children, during the term of any order of protection, to either spouse, or to any other proper person or institution.

(21) To determine the manner in which sums ordered paid for support shall be paid and applied, either to a person through the court or through the clerk of court.

(22) To require a person ordered to support another to give security by a written undertaking that he will pay the sums ordered by the court for such support and, upon the failure of any person to give such security by a written undertaking when required by order of the court, to punish such person for contempt and, when appropriate, to discharge such undertaking.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(23) In lieu of requiring an undertaking, to suspend sentence and place on probation a person who has failed to support another as required by law, and to determine the conditions of such probation and require them to be observed; to revoke such suspension of sentence and probation, where circumstances warrant it; and to discharge a respondent from probation.

(24) To release on probation prior to the expiration of the full term a person committed to jail for failure to obey an order of the court, where the court is satisfied that the best interest of the family and the community will be served thereby.

(25) To modify or vacate any order issued by the court.

(26) To order either before, during or after hearing a mental, physical and psychiatric examination as circumstances warrant.

(27) To exclude the public from the courtroom in a proper case.

(28) To send processes or any other mandates in any matter in which it has jurisdiction into any county of the State for service or execution in like manner and with the same force and effect as similar processes or mandates of the circuit courts, as provided by law.

(29) To compel the attendance of witnesses.

(30) To make any order necessary to carry out and enforce the provisions of this chapter, and to hear and determine any questions of support, custody, separation, or any other matter over which the court has jurisdiction, without the intervention of a jury; however, the court may not issue an order which prohibits a custodial parent from moving his residence to a location within the State unless the court finds a compelling reason or unless the parties have agreed to such a prohibition.

(31) To require spouses to furnish support or to be liable for nonsupport, as provided above, if, at the time of the filing of the petition for supports.

(A) He is residing or domiciled in the county or when such area is the matrimonial domicile of the parties; or

(B) He is not residing or domiciled in the area referred to in subsection (A), but is found therein at such time, provided the petitioner is so residing or domiciled at such time; or

(C) He is neither residing or domiciled nor found in such area but, prior to such time and while so residing or domiciled, he shall have failed to furnish such support, or shall have abandoned his spouse or child and thereafter shall have failed to furnish such support, provided that the petitioner is so residing or domiciled at that time.

(32) The petitioner need not continue to reside or be domiciled in such area where the cause of action arose, as provided in subitems (A) and (B) of item (31) of this section, if the conduct of the respondent has been such as to make it unsafe or improper for her to so reside or be domiciled, and the petitioner may bring action in the court of the jurisdiction wherein she is residing or has become domiciled.

(33) To order periods of visitation for the grandparents of a minor child where either or both parents of the minor child is or are deceased, or are divorced, or are living separate and apart in different habitats regardless of the existence of a court order or agreement, and upon a written finding that the visitation rights would be in the best interests of the child and would not interfere with the parent/child relationship. In determining whether to order visitation for the grandparents, the court shall consider the nature of the relationship between the child and his grandparents prior to the filing of the petition or complaint.

(34) To order custody with all rights of guardianship as described in 21-21-50.

(35) To hear and determine actions for protection from domestic abuse.

(36) To issue orders compelling public officials and officers to perform official acts under Chapter 7, Title 20, the Children's Code, Chapter 4, Title 20, Protection from Domestic Abuse Act, and Chapter 29, Title 43, Protective Services for Developmentally Disabled and Senile Persons.

(37) To appoint guardians ad litem and determine their compensation, fees, and costs and to assess as compensation, fees, and costs against the person represented by the guardian ad litem or against any other person or party involved in the action.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(38) To hear and determine an action where either party in his or her complaint, answer, counterclaim, or motion for pendente lite relief prays for the allowance of suit money pendent lite and permanently. In this action the court shall allow a reasonable sum for the claim if it appears well-founded. Suit money, including attorney's fees, may be assessed for or against a party to an action brought in or subject to the jurisdiction of the family court. An award of temporary attorney's fees or suit costs must not be stayed by an appeal of the award.

(39) To require the parties to engage in court-mandated mediation pursuant to Family Court Mediation Rules or to issue consent orders authorizing parties to engage in any form of alternate dispute resolution which does not violate the rules of the court or the laws of South Carolina; provided however, the parties in consensual mediation must designate any arbiter or mediator by unanimous consent subject to the approval of the court.

(40) To require the parent of a child brought before the court for adjudication of a delinquency matter and agencies providing services to the family to cooperate and participate in a plan adopted by the court to meet the needs and best interests of the child and to hold a parent or agency in contempt for failing to cooperate and participate in the plan adopted by the court. In imposing its contempt powers, the Family Court must take into consideration mitigating circumstances including the parent's or legal custodian's participation in the treatment plan, the level of services being offered by the lead and participating agencies, and the level of cooperation by the lead and participating agencies as the court may deem appropriate.

(41) To order a person required to pay support under a court order being enforced under Title IV-D of the Social Security Act who is unemployed or underemployed and who is the parent of a child receiving AFDC benefits to participate in an employment training program or public service employment pursuant to regulations promulgated by the department. The Division of Child Support Enforcement of the State Department of Social Services also has jurisdiction under this item in cases under Title IV-D of the Social Security Act brought pursuant to Article 32, Chapter 7, Title 20 of the 1976 Code.

(42) To order joint or divided custody where the court finds it is in the best interests of the child.

(43) To enforce an administrative subpoena or subpoena duces tecum issued by the Department of Social Services pursuant to Section 20-7-9575 and to enforce fines assessed by the department pursuant to Sections 20-7-9575, 43-5-595(C), and 43-5-598(G).

(44) To order sibling visitation where the court finds it is in the best interest of the children.

(45) To hear and determine actions concerning control of the person of a minor, including guardianship of the minor.

Policy and purpose; definitions

Section 20-7-480. (A) Any intervention by the State into family life on behalf of children must be guided by law, by strong philosophical underpinnings, and by sound professional standards for practice. Child Welfare Services must be based on these principles:

- (1) Parents have the primary responsibility for and are the primary resource for their children.
- (2) Children should have the opportunity to grow up in a family unit if at all possible.
- (3) State and community agencies have a responsibility to implement prevention programs aimed at identifying high risk families and to provide supportive intervention to reduce occurrence of maltreatment.
- (4) Services for families should be accessible and designed to encourage and enable families to adequately deal with their problems within their own family system.
- (5) All child welfare intervention by the State has as its primary goal the welfare and safety of the child.
- (6) Child welfare intervention into a family's life should be structured so as to avoid a child's entry into the protective service and foster care systems if at all possible.
- (7) The state's child welfare system must be designed to be child-centered, family-focused, community-based, and culturally competent in its prevention and protection efforts.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(8) Neighborhoods and communities are the primary source of opportunities and supports for families and have a primary responsibility in assuring the safety and vitality of their members.

(9) The Department of Social Services shall collaborate with the community to identify, support, and treat families in a nonthreatening manner, in both investigative and family assessment situations.

(10) A family assessment approach, stressing the safety of the child, building on the strengths of the family, and identifying and treating the family's needs is the appropriate approach for cases not requiring law enforcement involvement or the removal of the child.

(11) Only a comparatively small percentage of current child abuse and neglect reports are criminal in nature or will result in the removal of the child or alleged perpetrator.

(12) Should removal of a child become necessary, the state's foster care system must be prepared to provide timely and appropriate placements for children with relatives or in licensed foster care settings and to establish a plan which reflects a commitment by the State to achieving permanency for the child within reasonable timelines.

(13) The Department of Social Services staff who investigates serious child abuse and neglect reports with law enforcement must be competent in law enforcement procedures, fact finding, evidence gathering, and effective social intervention and assessment.

(14) Services should be identified quickly and should build on the strengths and resources of families and communities.

(B) It is the purpose of this article to:

- (1) acknowledge the different intervention needs of families;
- (2) establish an effective system of services throughout the State to safeguard the well-being and development of endangered children and to preserve and stabilize family life, whenever appropriate;
- (3) ensure permanency on a timely basis for children when removal from their homes is necessary;
- (4) establish fair and equitable procedures, compatible with due process of law to intervene in family life with due regard to the safety and welfare of all family members; and
- (5) establish an effective system of protection of children from injury and harm while living in public and private residential agencies and institutions meant to serve them.

Section 20-7-490. When used in this article, or in Article 9, Article 11, or subarticle 7 of Article 13, and unless the specific context indicates otherwise:

- (1) 'Child' means a person under the age of eighteen.
- (2) 'Child abuse or neglect' or 'harm' occurs when the parent, guardian, or other person responsible for the child's welfare:
 - (a) inflicts or allows to be inflicted upon the child physical or mental injury or engages in acts or omissions which present a substantial risk of physical or mental injury to the child, including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical discipline which:
 - (i) is administered by a parent or person in loco parentis;
 - (ii) is perpetrated for the sole purpose of restraining or correcting the child;
 - (iii) is reasonable in manner and moderate in degree;
 - (iv) has not brought about permanent or lasting damage to the child;
 - (v) is not reckless or grossly negligent behavior by the parents.
 - (b) commits or allows to be committed against the child a sexual offense as defined by the laws of this State or engages in acts or omissions that present a substantial risk that a sexual offense as defined in the laws of this State would be committed against the child;
 - (c) fails to supply the child with adequate food, clothing, shelter, or education as required under Article 1 of Chapter 65 of Title 59, supervision appropriate to the child's age and development, or health care though

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

financially able to do so or offered financial or other reasonable means to do so and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child's absences from school may not be considered abuse or neglect unless the school has made efforts to bring about the child's attendance, and those efforts were unsuccessful because of the parents' refusal to cooperate. For the purpose of this chapter 'adequate health care' includes any medical or nonmedical remedial health care permitted or authorized under state law.

(d) abandons the child;

(e) encourages, condones, or approves the commission of delinquent acts by the child and the commission of the acts are shown to be the result of the encouragement, condonation, or approval; or

(f) has committed abuse or neglect as described in subsections (a) through (e) such that a child who subsequently becomes part of the person's household is at substantial risk of one of those forms of abuse or neglect.

(3) 'A person responsible for a child's welfare' includes the child's parent, guardian, foster parent, an operator, employee, or caregiver, as defined by Section 20-7-2700, of a public or private residential home, institution, agency, or child day care facility or an adult who has assumed the role or responsibility of a parent or guardian for the child, but who does not necessarily have legal custody of the child. A person whose only role is as a caregiver and whose contact is only incidental with a child, such as a baby-sitter or a person who has only incidental contact but may not be a caretaker, has not assumed the role or responsibility of a parent or guardian. If the information contained in a report otherwise sufficient under this section does not establish whether the person has assumed the role or responsibility of a parent or guardian for the child, the department may use information gathered by law enforcement responding to the incident to determine whether to initiate an investigation. If this information is not available with twenty-four hours following receipt of the report, an investigation pursuant to Section 20-7-650 must be initiated.

(4) 'Physical injury' means death or permanent or temporary disfigurement or impairment of any bodily organ or function.

(5) 'Mental injury' means an injury to the intellectual, emotional, or psychological capacity of functioning of a child as evidenced by a discernible and substantial impairment of the child's ability to function when the existence of that impairment is supported by the opinion of a mental health professional or medical professional.

(6) 'Institutional child abuse and neglect' means situations of known or suspected child abuse or neglect where the person responsible for the child's welfare is the employee of a public or private residential home, institution, or agency.

(7) 'Protective services unit' means the unit established within the Department of Social Services which has prime responsibility for state efforts to strengthen and improve the prevention, identification, and treatment of child abuse and neglect.

(8) 'Subject of the report' means a person who is alleged or determined to have abused or neglected the child, who is mentioned by name in a report or finding.

(9) 'Suspected report' means all initial reports of child abuse or neglect received pursuant to this article.

(10) 'Unfounded report' means a report made pursuant to this article for which there is not a preponderance of evidence to believe that the child is abused or neglected. For the purposes of this article, it is presumed that all reports are unfounded unless the department determines otherwise.

(11) 'Indicated report' means a report of child abuse or neglect supported by facts which warrant a finding by a preponderance of evidence that abuse or neglect is more likely than not to have occurred.

(12) 'Probable cause' means facts and circumstances based upon accurate and reliable information, including hearsay, that would justify a reasonable person to believe that a child subject to a report under this article is abused or neglected.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(13) 'Preponderance of evidence' means evidence which, when fairly considered, is more convincing as to its truth than the evidence in opposition.

(14) 'Department' means the Department of Social Services.

(15) 'Child protective investigation' means an inquiry conducted by the department in response to a report of child abuse or neglect made pursuant to this article.

(16) 'Child protective services' means assistance provided by the department as a result of indicated reports or affirmative determinations of child abuse or neglect, including assistance ordered by the family court or consented to by the family. The objectives of child protective services are to:

(a) protect the child's safety and welfare; and

(b) maintain the child within the family unless the safety of the child requires placement outside the home.

(17) 'Affirmative determination' means a finding by a preponderance of evidence that the child was abused or neglected by the person who is alleged or determined to have abused or neglected the child and who is mentioned by name in a report or finding. This finding may be made only by:

(a) the court;

(b) the Department of Social Services upon a final agency decision in its appeals process; or

(c) waiver by the subject of the report of his right to appeal. If an affirmative determination is made by the court after an affirmative determination is made by the Department of Social Services, the court's finding must be the affirmative determination.

(18) 'Court' means the family court.

(19) 'Abandonment of a child' means a parent or guardian willfully deserts a child or willfully surrenders physical possession of a child without making adequate arrangements for the child's needs or the continuing care of the child.

(20) 'Guardianship of a child' means the duty and authority vested in a person by the family court to make certain decisions regarding a child, including:

(a) consenting to a marriage, enlistment in the armed forces, and medical and surgical treatment;

(b) representing a child in legal actions and to make other decisions of substantial legal significance affecting a child; and

(c) rights and responsibilities of legal custody when legal custody has not been vested by the court in another person, agency, or institution.

(21) 'Legal custody' means the right to the physical custody, care, and control of a child; the right to determine where the child shall live; the right and duty to provide protection, food, clothing, shelter, ordinary medical care, education, supervision, and discipline for a child and in an emergency to authorize surgery or other extraordinary care. The court may in its order place other rights and duties with the legal custodian.

Unless otherwise provided by court order, the parent or guardian retains the right to make decisions of substantial legal significance affecting the child, including consent to a marriage, enlistment in the armed forces, and major nonemergency medical and surgical treatment; the obligation to provide financial support or other funds for the care of the child; and other residual rights or obligations as may be provided by order of the court.

(22) 'Party in interest' includes the child, the child's attorney and guardian ad litem, the natural parent, an individual with physical or legal custody of the child, the foster parent, and the local foster care review board.

(23) 'Physical custody' means the lawful, actual possession and control of a child.

(24) 'Emergency protective custody' means the right to physical custody of a child for a temporary period of no more than twenty-four hours to protect the child from imminent danger. Emergency protective custody may be taken only by a law enforcement officer pursuant to this article.

SECTION 20-7-495. Children's Advocacy Centers; services provided; standards of care; release of records.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- (A) “Children’s Advocacy Centers” mean centers which must coordinate a multi-agency response to child maltreatment and assist in the investigation and assessment of child abuse. These centers must provide: (1) a neutral, child-friendly facility for forensic interviews;
- (2) the coordination of services for children reported to have been abused;
- (3) services including, but not limited to, forensic interviews, forensic medical examinations, and case reviews by multidisciplinary teams to best determine whether maltreatment has occurred; and
- (4) therapeutic counseling services, support services for the child and nonoffending family members, court advocacy, consultation, and training for professionals who work in the area of child abuse and neglect, to reduce negative impact to the child and break the cycle of abuse.
- (B)(1) Children’s Advocacy Centers must establish memoranda of agreement with governmental entities charged with the investigation and prosecution of child abuse. Fully operational centers must function in a manner consistent with standards of the National Children’s Alliance, and all centers must strive to achieve full membership in the National Children’s Alliance.
- (2) Children’s Advocacy Centers must establish written policies and procedures for standards of care including, but not limited to, the timely intervention of services between initial contact with the child and the event which led to the child’s being referred to the center. Children’s Advocacy Centers must make available these written policies and procedures to all professionals who provide services relating to the investigation, treatment, and prosecution of child abuse and neglect within the geographical vicinity of the center.
- (3) Children’s Advocacy Center records must be released to the Department of Social Services for purposes of investigation, assessment of allegations of child abuse or neglect, and provision of treatment services to the children or their families. The records must be released to law enforcement agencies and circuit solicitors or their agents who are:
- (a) investigating or prosecuting known or suspected abuse or neglect of a child;
- (b) investigating or prosecuting the death of a child;
- (c) investigating or prosecuting any crime against a child; or
- (d) attempting to locate a missing child.
- This provision does not preclude or override the release of information based upon a subpoena or court order, unless otherwise prohibited by law.
- (C) The South Carolina Network of Children’s Advocacy Centers and the South Carolina Chapter of the National Children’s Alliance must coordinate and facilitate the exchange of information among statewide centers and provide technical assistance to communities in the establishment, growth, and certification of local centers. The network must also educate the public and legislature regarding the needs of abused children and provide or coordinate multidisciplinary training opportunities which support the comprehensive response to suspected child maltreatment.
- (D) Nothing in this section requires the exclusive use of a Children’s Advocacy Center.

Child abuse reporting requirements; immunity; privileged communications

Section 20-7-500. A person seeking assistance in meeting child care responsibilities may use the services and facilities established by this article, including the single statewide telephone number and local child protective services where available. These persons must be referred to appropriate community resources or agencies, notwithstanding whether the problem presented involves child abuse or neglect.

Section 20-7-505. The law enforcement officer upon receipt of a report of domestic violence may report this information to the Department of Social Services. The department may treat the case as suspected report of abuse and may investigate the case as in other allegations of abuse in order to determine if the child has been harmed.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Section 20-7-510. (A) A physician, nurse, dentist, optometrist, medical examiner or coroner or an employee of a county medical examiner's or coroner's office, or any other medical, emergency medical services, mental health, or allied health professional, member of the clergy including a Christian Science Practitioner or healer, school teacher, counselor, principal, assistant principal, social or public assistance worker, substance abuse treatment staff, or child care worker in a day care center or foster care facility, police or law enforcement officer, undertaker, funeral home director or employee of a funeral home or persons responsible for processing of films, computer technician, or a judge must report in accordance with this section when in the person's professional capacity the person has received information which gives the person reason to believe that a child has been or may be abused or neglected as defined in Section 20-7-490.

(B) If a person required to report pursuant to subsection (A) has received information in the person's professional capacity which gives the person reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect if committed by a parent, guardian, or other person responsible for the child's welfare, but the reporter believes that the act or omission was committed by a person other than the parent, guardian or other person responsible for the child's welfare, the reporter must make a report to the appropriate law enforcement agency.

(C) Except as provided in subsection (A), any person who has reason to believe that a child's physical or mental health or wealth has been or may be adversely affected by abuse and neglect may report in accordance with this section.

(D) Reports of child abuse or neglect may be made orally by telephone or otherwise to the county department of social services or to a law enforcement agency in the county where the child resides or is found.

Where reports are made pursuant to this section to a law enforcement agency, the law enforcement agency shall notify the county department of social services of the law enforcement's response to the report at the earliest possible time.

Where a county or contiguous counties have established multicounty child protective services, pursuant to Section 20-7-650, the county department of social services immediately shall transfer reports pursuant to this section to the service.

(E) The identity of the person making a report pursuant to this section must be kept confidential by the agency or department receiving the report and must not be disclosed except as provided for in this chapter.

When the department refers a report to a law enforcement agency for a criminal investigation, the department must inform the law enforcement agency of the identity of the person who reported the child abuse or neglect. The identity of the reporter must only be used by the law enforcement agency to further the criminal investigation arising from the report, and the agency must not disclose the reporter's identity to any person other than an employee of the agency who is involved in the criminal investigation arising from the report. If the reporter testifies in a criminal proceeding arising from the report, it must not be disclosed that the reporter made the report.

When a law enforcement agency refers a report to the department for an investigation or other response, the law enforcement agency must inform the department of the identity of the person who reported the child abuse or neglect. The department must not disclose the identity of the reporter to any person except as authorized by Section 20-7-690.

(F) When a report is referred to the department for an investigation or other response, the department must determine whether previous reports have been made regarding the same child or the same subject of the report. In determining whether previous reports have been made, the department must determine whether there are any suspected, indicated, or unfounded reports maintained pursuant to Section 20-7-650 regarding the same child or the same subject of the report.

(G) If the department does not conduct an investigation as a result of information received pursuant to this section, the department must make a record of the information and must classify the record as a Category IV

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

unfounded report in accordance with Section 20-7-650. The department and law enforcement are authorized to use information recorded pursuant to this subsection for purposes of assessing risk and safety if additional contacts are made concerning the child, the family, or the subject of the report.

Section 20-7-520. A person required under Section 20-7-510(A) to report cases of suspected child abuse or neglect, including workers of the department, who has reason to believe a child has died as the result of child abuse or neglect, shall report this information to the appropriate medical examiner or coroner. Any other person who has reason to believe that a child has died as a result of child abuse or neglect may report this information to the appropriate medical examiner or coroner. The medical examiner or coroner shall accept the report for investigation and shall report his findings to the appropriate law enforcement agency, circuit solicitor's office, the county department of social services and, if the institution making a report is a hospital, to the hospital.

Section 20-7-530. A person required to report under Section 20-7-510 may take, or cause to be taken, color photographs of the areas of trauma visible on a child who is the subject of a report and, if medically indicated, a physician may cause to be performed a radiological examination or other medical examinations or tests of the child without the consent of the child's parents or guardians. Copies of all photographs, negatives, radiological, and other medical reports must be sent to the department at the time a report pursuant to Section 20-7-510 is made, or as soon as reasonably possible after the report is made.

Section 20-7-540. A person required or permitted to report pursuant to this article or who participates in an investigation or judicial proceedings resulting from the report, acting in good faith, is immune from civil and criminal liability which might otherwise result by reason of these actions. In all such civil or criminal proceedings good faith is rebuttably presumed. Immunity under this section extends to full disclosure by the person of facts which gave the person reason to believe that the child's physical or mental health or welfare had been or might be adversely affected by abuse or neglect.

Section 20-7-545. An employee, volunteer, or official of the Department of Social Services required or authorized to perform child protective or child welfare-related functions or an individual with whom the department has contracted to convene family group conferences or a law enforcement officer required or authorized to perform child protective or child welfare-related functions is immune from civil or criminal liability which might otherwise result by reason of acts or omissions within the scope of the official duties of the employee, volunteer, convener, officer, or official, as long as the employee, volunteer, convener, officer, or official acted in good faith and was not reckless, wilful, wanton, or grossly negligent. In all such civil or criminal proceedings good faith is rebuttably presumed. This grant of immunity is cumulative to and does not replace any other immunity provided under the South Carolina Tort Claims Act.

Section 20-7-550. The privileged quality of communication between husband and wife and any professional person and his patient or client, except that between attorney and client or clergy member, including Christian Science Practitioner or religious healer, and penitent, is abrogated and does not constitute grounds for failure to report or the exclusion of evidence in a civil protective proceeding resulting from a report pursuant to this article. However, a clergy member, including Christian Science Practitioner or religious healer, must report in accordance with this subarticle except when information is received from the alleged perpetrator of the abuse and neglect during a communication that is protected by the clergy and penitent privilege as defined in Section 19-11-90.

Section 20-7-560. A person required to report a case of child abuse or neglect or a person required to perform any other function under this article who knowingly fails to do so, or a person who threatens or attempts to

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

intimidate a witness is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

Section 20-7-567. (A) It is unlawful to knowingly make a false report of abuse or neglect.

(B) A person who violates subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than ninety days, or both.

Section 20-7-570. (A) If the family court determines pursuant to Section 20-7-695 that a person has made a report of suspected child abuse or neglect maliciously or in bad faith or if a person has been found guilty of making a false report pursuant to Section 20-7-567, the department may bring a civil action to recover the costs of the department's investigation and proceedings associated with the investigation, including attorney's fees. The department also is entitled to recover costs and attorney's fees incurred in the civil action authorized by this section. The decision of whether to bring a civil action pursuant to this section is in the sole discretion of the department.

(B) If the family court determines pursuant to Section 20-7-695 that a person has made a false report of suspected child abuse or neglect maliciously or in bad faith or if a person has been found guilty of making a false report pursuant to Section 20-7-567, a person who was subject of the false report has a civil cause of action against the person who made the false report and is entitled to recover from the person who made the false report such relief as may be appropriate, including:

- (1) actual damages;
- (2) punitive damages; and
- (3) a reasonable attorney's fee and other litigation costs reasonably incurred.

Emergency protective custody; placement; investigation; court orders

Section 20-7-610. (A) A law enforcement officer may take emergency protective custody of a child without the consent of the child's parents, guardians, or others exercising temporary or permanent control over the child if:

(1) The officer has probable cause to believe that by reason of abuse or neglect the child's life, health, or physical safety is in substantial and imminent danger if the child is not taken into emergency protective custody, and there is not time to apply for a court order pursuant to Section 20-7-736. When a child is taken into emergency protective custody following an incident of excessive corporal punishment and the only injury to the child is external lesions or minor bruises, other children in the home shall not be taken into emergency protective custody solely on account of the injury of one child through excessive corporal punishment. However, the officer may take emergency protective custody of other children in the home if a threat of harm to them is further indicated by factors including, but not limited to, a prior history of domestic violence or other abuse in the home, alcohol or drug abuse if known or evident at the time of the initial contact, or other circumstances indicative of danger to the children;

(2) The child's parent, parents, or guardian has been arrested or the child has become lost accidentally and as a result the child's welfare is threatened due to loss of adult protection and supervision; and

(a) in the circumstances of arrest, the parent, parents, or guardian does not consent in writing to another person assuming physical custody of the child;

(b) in the circumstances of a lost child, a search by law enforcement has not located the parent, parents, or guardian.

(B) If the child is in need of emergency medical care at the time the child is taken into emergency protective custody, the officer shall transport the child to an appropriate health care facility. Emergency medical care may be provided to the child without consent, as provided in Section 20-7-290. The parent or guardian is

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

responsible for the cost of emergency medical care that is provided to the child. However, the parent or guardian is not responsible for the cost of medical examinations performed at the request of law enforcement or the department solely for the purpose of assessing whether the child has been abused or neglected unless it is determined that the child has been harmed as defined in this article.

If the child is not in need of emergency medical care, the officer or the department shall transport the child to a place agreed upon by the department and law enforcement, and the department within two hours shall assume physical control of the child and shall place the child in a licensed foster home or shelter within a reasonable period of time. In no case may the child be placed in a jail or other secure facility or a facility for the detention of criminal or juvenile offenders. While the child is in its custody, the department shall provide for the needs of the child and assure that a child of school age who is physically able to do so continues attending school.

(C) When an officer takes a child into emergency protective custody under this section, the officer immediately shall notify the department. The department shall notify the parent, guardian, or other person exercising temporary or permanent control over the child as early as reasonably possible of the location of the child unless there are compelling reasons for believing that disclosure of this information would be contrary to the best interests of the child.

(D) The department shall conduct within twenty-four hours after the child is taken into emergency protective custody by law enforcement or pursuant to ex parte order a preliminary investigation to determine whether grounds for assuming legal custody of the child exist and whether reasonable means exist for avoiding removal of the child from the home of the parent or guardian or for placement of the child with a relative and means for minimizing the emotional impact on the child of separation from the child's home and family. During this time the department, if possible, shall convene a meeting with the child's parents or guardian, extended family, and other relevant persons to discuss the family's problems that led to intervention and possible corrective actions, including placement of the child.

(E) Before agreeing to or acquiescing in a corrective action that involves placement of the child with a relative or other person or making an interim placement with a relative while retaining custody of the child or as soon as possible after agreeing to or acquiescing in a corrective action, the department shall secure from the relative or other person and other adults in the home an affidavit attesting to information necessary to determine whether a criminal history or history of child abuse or neglect exists and whether this history indicates there is a significant risk that the child would be threatened with abuse or neglect in the home of the relative or other person. As soon as possible, the department shall confirm the information supplied in the affidavit by checking the Central Registry of Child Abuse and Neglect, other relevant department records, county sex offender registries, and records for the preceding five years of law enforcement agencies in the jurisdiction in which the relative or other person resides and, to the extent reasonably possible, jurisdictions in which the relative or other person has resided during that period. The department must not agree to or acquiesce in a placement if the affidavit or these records reveal information indicating there is a significant risk that the child would be threatened with abuse or neglect in the home of the relative or other person. The relative or other person must consent to a check of the above records by the department.

(F) If the department determines after the preliminary investigation that there is probable cause to believe that by reason of abuse or neglect the child's life, health, or physical safety is in imminent and substantial danger, the department may assume legal custody of the child without the consent of the child's parent, guardian, or custodian. The department shall make every reasonable effort to notify the child's parent, guardian, or custodian of the location of the child and shall make arrangements for temporary visitation unless there are compelling reasons why visitation or notice of the location of the child would be contrary to the best interests of the child. The notification must be in writing and shall include notice of the right to a hearing and right to counsel pursuant to this article. Nothing in this subsection authorizes the department to physically remove a child from the care of the child's parent or guardian without an order of the court. The department may exercise the authority to assume legal custody only

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

after a law enforcement officer has taken emergency protective custody of the child or the family court has granted emergency protective custody by ex parte order, and the department has conducted a preliminary investigation pursuant to this section.

(G) If emergency protective custody of the child was taken by a law enforcement officer pursuant to subsection (A), and the department concludes after the preliminary investigation that the child should be returned to the child's parent, guardian, or custodian, the department shall consult with the law enforcement officer who took emergency protective custody unless the department and the law enforcement agency have agreed to an alternative procedure. If the officer objects to the return of the child, the department must assume legal custody of the child until a probable cause hearing can be held. The alternative procedure agreed to by the department and the law enforcement agency may provide that the child must be retained in custody if the officer cannot be contacted, conditions under which the child may be returned home if the officer cannot be contacted, other persons within the law enforcement agency who are to be consulted instead of the officer, or their procedures. If no alternative procedure has been agreed to and the department is unable to contact the law enforcement officer after reasonable efforts to do so, the department shall consult with the officer's designee or the officer's agency.

(H) The period of emergency protective custody may be extended for up to twenty-four additional hours if:

(1) the department concludes that the child is to be placed with a relative or other person instead of taking legal custody of the child;

(2) the department requests the appropriate law enforcement agency to check for records concerning the relative or other person, or any adults in that person's home; and

(3) the law enforcement agency notifies the department that the extension is needed to enable the law enforcement agency to complete its record check before the department's decision on whether to take legal custody of the child.

(I) If within the twenty-four hours following removal of the child:

(1) the department has identified a specified relative or other person with whom it has determined that the child is to be placed instead of the department's taking legal custody of the child; and

(2) both the relative or other person with whom the child is to be placed and the child's parent or guardian have agreed to the placement, the department may retain physical custody of the child for no more than five additional days if necessary to enable the relative or other person to make travel or other arrangements incident to the placement. A probable cause hearing pursuant to subsection (M) shall not be held unless the placement fails to occur as planned within the five-day period or the child's parent or guardian makes a written request for a hearing to the department. The department must give the child's parent or guardian written notice of the right to request a probable cause hearing to obtain a judicial determination of whether removal of the child from the home was and remains necessary. Upon receipt of a written request for a hearing from the child's parent or guardian, the department shall schedule a hearing for the next date on which the family court is scheduled to hear probable cause hearings. If the placement does not occur as planned within the five-day period, the department immediately must determine whether to assume legal custody of the child and file a petition as provided in subsection (K). The department shall assure that the child is given age-appropriate information about the plans for placement and any subsequent changes in those plans at the earliest feasible time.

(J) If a law enforcement officer clearly states to the department at the time the officer delivers physical control of the child to the department that the child is not to be returned to the home or placed with a relative before a probable cause hearing regardless of the outcome of a preliminary investigation, the department immediately must take legal custody of the child. In this case, at a minimum, the department shall conduct a preliminary investigation as provided in this section within seventy-two hours after the child was taken into emergency protective custody and shall make recommendations concerning return of the child to the home or placement with a relative or other person to the family court at the probable cause hearing or take other appropriate action as provided in this chapter.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(K) The department, upon assuming legal custody of the child, shall begin a child protective investigation, including immediate attention to the protection of other children in the home, or other setting where the child was found. The department shall initiate a removal proceeding in the appropriate family court pursuant to Section 20-7-736 on or before the next working day after initiating the investigation. If a non-custodial parent is not named as a party, the department shall exercise every reasonable effort to promptly notify the non-custodial parent that a removal proceeding has been initiated and of the date and time of any hearings scheduled pursuant to this section. Upon a determination by the department before the probable cause hearing that there is not a preponderance of evidence that child abuse or neglect occurred, the department may place physical custody of the child with the parent, parents, guardian, immediate family member, or relative, with the department retaining legal custody pending the probable cause hearing. When the facts and circumstances of the report clearly indicate that no abuse or neglect occurred, the report promptly must be determined to be unfounded, and the department shall exercise reasonable efforts to expedite the placement of the child with the parent, parents, guardian, immediate family member, or relative.

(L) If the child is returned to the child's parent, guardian, or custodian following the preliminary investigation, a probable cause hearing must be held if requested by the child's parent, guardian, or custodian or the department or the law enforcement agency that took emergency protective custody of the child. The request must be made in writing to the court within ten days after the child is returned. A probable cause hearing pursuant to subsection (K) must be scheduled within seven days of the request to determine whether there was probable cause to take emergency physical custody of the child.

(M) The family court shall schedule a probable cause hearing to be held within seventy-two hours of the time the child was taken into emergency protective custody. If the third day falls upon a Saturday, Sunday, or holiday, the probable cause hearing must be held no later than the next working day. If there is no term of court in the county when the probable cause hearing must be held, the hearing must be held in another county in the circuit. If there is no term of family court in another county in the circuit, the probable cause hearing may be heard in another court in an adjoining circuit.

The probable cause hearing may be conducted by video conference at the discretion of the judge. At the probable cause hearing, the family court shall undertake to fulfill the requirements of Section 20-7-110 and shall determine whether there was probable cause for emergency protective custody and for the department to assume legal custody of the child and shall determine whether probable cause to retain legal custody of the child remains at the time of the hearing. At the probable cause hearing, the respondents may submit affidavits as to facts which are alleged to form the basis of the removal and to cross-examine the department's witnesses as to whether there existed probable cause to effect emergency removal. The hearing on the merits to determine whether removal of custody is needed, pursuant to Section 20-7-736, must be held within thirty-five days of the date of receipt of the removal petition. At the probable cause hearing, the court shall set the time and date for the hearing on the merits. A party may request a continuance that would result in the hearing being held more than thirty-five days after the petition was filed, and the court may grant the request for continuance only if exceptional circumstances exist. If a continuance is granted, the hearing on the merits must be completed within sixty-five days following receipt of the removal petition. The court may continue the hearing on the merits beyond sixty-five days without returning the child to the home only if the court issues a written order with findings of fact supporting a determination that the following conditions are satisfied, regardless of whether the parties have agreed to a continuance:

(1) the court finds that the child should remain in the custody of the department because there is probable cause to believe that returning the child to the home would seriously endanger the child's physical safety or emotional well-being;

(2) the court schedules the case for trial on a date and time certain which is not more than thirty days after the date the hearing was scheduled to be held; and

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(3) the court finds that exceptional circumstances support the continuance or the parties and the guardian ad litem agree to a continuance.

The court may continue the case past the date and time certain set forth in subsection (M) only if the court issues a new order as required in subsection (M).

The court may continue the case because a witness is unavailable only if the court enters a finding of fact that the court cannot decide the case without the testimony of the witness. The court shall consider and rule on whether the hearing can begin and then recess to have the witness' testimony taken at a later date or by deposition. The court shall rule on whether the party offering the witness has exercised due diligence to secure the presence of the witness or to preserve the witness' testimony.

This subsection does not prevent the court from conducting a pendente lite hearing on motion of any party and issuing an order granting other appropriate relief pending a hearing on the merits.

If the child is returned to the home pending the merits hearing, the court may impose such terms and conditions as it determines appropriate to protect the child from harm, including measures to protect the child as a witness.

When a continuance is granted pursuant to this subsection, the family court shall ensure that the hearing is rescheduled within the time limits provided herein and give the hearing priority over other matters pending before the court except a probable cause hearing held pursuant to this subsection, a detention hearing held pursuant to Section 20-7-7215, or a hearing held pursuant to Section 20-7-7415 or 20-7-7605 concerning a child who is in state custody pursuant to Article 30. An exception also may be made for child custody hearings if the court, in its discretion, makes a written finding stating, compelling reasons, relating to the welfare of the child, for giving priority to the custody hearing.

(N) An order issued as a result of the probable cause hearing held pursuant to subsection (K) concerning a child of whom the department has assumed legal custody shall contain a finding by the court of whether reasonable efforts were made by the department to prevent removal of the child and a finding of whether continuation of the child in the home would be contrary to the welfare of the child. The order shall state:

(1) the services made available to the family before the department assumed legal custody of the child and how they related to the needs of the family;

(2) the efforts of the department to provide services to the family before assuming legal custody of the child;

(3) why the efforts to provide services did not eliminate the need for the department to assume legal custody;

(4) whether a meeting was convened as provided in subsection (D), the persons present, and the outcome of the meeting or, if no meeting was held, the reason for not holding a meeting;

(5) what efforts were made to place the child with a relative known to the child or in another familiar environment;

(6) whether the efforts to eliminate the need for the department to assume legal custody were reasonable including, but not limited to, whether services were reasonably available and timely, reasonably adequate to address the needs of the family, reasonably adequate to protect the child and realistic under the circumstances, and whether efforts to place the child in a familiar environment were reasonable.

If the court finds that reasonable service would not have allowed the child to remain safely in the home, the court shall find that removal of the child without services or without further services was reasonable.

(O) If the court orders the child to remain in the legal custody of the department at the probable cause hearing, the family court may order expedited placement of the child with a relative of the first or second degree. The court shall require the department to check the names of all adults in the home against the Central Registry of Child Abuse and Neglect, other relevant records of the department, county sex abuse registers, and records for the preceding five years of law enforcement agencies in the jurisdiction in which the person resides and, to the extent reasonably possible, jurisdictions in which the person has resided during that period. The court may hold open the record of the probable cause hearing for twenty-four hours to receive the reports and based on these reports and other information introduced at the probable cause hearing, the court may order expedited

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

placement of the child in the home of the relative. Nothing in this subsection precludes the department from requesting or the court from ordering pursuant to the department's request either a full study of the relative's home before placement or the licensing or approval of the relative's home before placement.

(P) The family court may order ex parte that a child be taken into emergency protective custody without the consent of parents, guardians, or others exercising temporary or permanent control over the child if:

(1) The family court judge determines there is probable cause to believe that by reason of abuse or neglect there exists an imminent and substantial danger to the child's life, health, or physical safety; and

(2) Parents, guardians, or others exercising temporary or permanent control over the child are unavailable or do not consent to the child's removal from their custody.

(Q) If the court issues such an order, the department shall conduct a preliminary investigation and otherwise proceed as provided in this section.

(R) The department and local law enforcement agencies shall develop written protocols to address issues related to emergency protective custody. The protocols shall cover at a minimum information exchange between the department and local law enforcement agencies, consultation on decisions to assume legal custody, and the transfer of responsibility over the child, including mechanisms and assurances for the department to arrange expeditious placement of the child."

Removal authority of law enforcement officers; department access to sex offender registry; medical professional detaining child

Section 20-7-612. A law enforcement officer investigating a case of suspected child abuse or neglect or responding to a request for assistance by the department as it investigates a case of suspected child abuse or neglect has authority to take emergency protective custody of the child pursuant to Section 20-7-610 in all counties and municipalities.

Immediately upon taking emergency protective custody, the law enforcement officer shall notify the local office of the department responsible to the county in which the activity under investigation occurred.

The department shall designate by policy and procedure the local department office responsible for procedures required by Section 20-7-610 when a child resides in a county other than the one in which the activity under investigation occurred. The probable cause

hearing required by Section 20-7-610 may be held in the county of the child's residence or the county of the law enforcement officer's jurisdiction.

Section 20-7-616. Notwithstanding any other provision of the law, upon request of the department, a criminal justice agency having custody of or access to state or local law enforcement records or county sex offender registries shall provide the department with information pertaining to the criminal history of an adult residing in the home of a child who is named in a report of suspected child abuse or neglect or in a home in which it is proposed that the child be placed. This information shall include conviction data, nonconviction data, arrests, and incident reports accessible to the agency. The department shall not be charged a fee for this service.

Section 20-7-618. (A) A physician or hospital to which a child has been brought for treatment may detain the child for up to twenty-four hours without the consent of the person responsible for the child's welfare if the physician or hospital:

(1) has reason to believe that the child has been abused or neglected;

(2) has made a report to a law enforcement agency and the department pursuant to Section 20-7-510, stating the time the physician notified the agency or department that the child was being detained until a law

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

enforcement officer could arrive to determine whether the officer should take emergency physical custody of the child pursuant to Section 20-7-610; and

(3) has reason to believe that release of the child to the child's parent, guardian, custodian, or caretaker presents an imminent danger to the child's life, health, or physical safety. A hospital must designate a qualified person or persons within the hospital who shall have sole authority to detain a child on behalf of the hospital.

(B) A physician or hospital that detains a child in good faith as provided in this section is immune from civil or criminal liability for detaining the child."

Intervention by child welfare agencies

Section 20-7-635. (A) The department is authorized to develop a network of homes and facilities to use for temporary crisis placements for children.

(B) Temporary crisis placements may be made with licensed child welfare agencies including foster homes and residential group facilities. The department also may use volunteers who are screened by the department for the sole purpose of these placements. The screening of volunteer crisis homes shall include Central Registry of Child Abuse and Neglect and criminal history records checks in accordance with Section 20-7-1642. The department shall develop criteria for screening volunteer crisis homes through promulgation of regulations in accordance with the Administrative Procedures Act.

(C) Children in temporary crisis placements are not in the custody of the department and must not be considered to be in foster care. No placement of a child in a temporary crisis home or facility may occur unless it is agreed to by the child's parent, guardian, or custodian and the department. Temporary crisis placements may last no longer than seventy-two hours.

Section 20-7-640. (A) The Department of Social Services may maintain a toll-free number available to persons throughout the State for the referral of family-related problems, including:

- (1) The reporting of known or suspected cases of child abuse or neglect.
- (2) Other problems of a nature which may affect the stability of family life.

This telephone service shall operate continuously. Upon receipt of a call involving suspected abuse or neglect, the Department of Social Services shall transmit the full contents of the report to the appropriate county department office. Immediately upon transmitting the report the department shall destroy the contents of the suspected report. Upon receipt of a call involving other problems of a nature which may affect the stability of family life, the department shall refer the call to the appropriate county department office or other service agency where appropriate.

(B) The department shall have within it a separate organizational unit administered within the department with qualified staff and resources sufficient to fulfill the purposes and functions assigned to it by this article.

(C) The department's responsibilities shall include, but are not limited to:

- (1) assigning and monitoring initial child protection responsibility through periodic review of services offered throughout the State;
- (2) assisting in the diagnosis of child abuse and neglect;
- (3) coordinating referrals of known or suspected child abuse and neglect;
- (4) measuring the effectiveness of existing child protection programs and facilitating research, planning, and program development; and
- (5) establishing and monitoring a statewide Central Registry for Child Abuse and Neglect.

(D) The county in which the child resides is the legal place of venue.

(E) The department may promulgate regulations and formulate policies and methods of administration to carry out effectively child protective services, activities, and responsibilities.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(F) The department may contract for the delivery of protective services, family preservation services, foster care services, family reunification services, adoptions services, and other related services or programs. The department shall remain responsible for the quality of the services or programs and shall ensure that each contract contains provisions requiring the provider to deliver services in accordance with departmental policies and state and federal law.

Section 20-7-645. The department shall provide notice of a hearing held in connection with an action filed or pursued under Section 20-7-610, 20-7-736, 20-7-738, 20-7-762, 20-7-764, 20-7-766, or 20-7-1568 to the foster parent, the preadoptive parent, or the relative who is providing care for a child. The notice must be in writing and may be delivered in person or by regular mail. The notice shall inform the foster parent, preadoptive parent, or relative of the date, place and time of the hearing and of the right to attend the hearing and to address the court concerning the child. Notice provided pursuant to this section does not confer on the foster parent, preadoptive parent, or relative the status of a party to the action.

Section 20-7-650. (A) It is the purpose of this section to encourage the voluntary acceptance of any service offered by the department in connection with child abuse and neglect or another problem of a nature affecting the stability of family life.

(B) The department must be staffed adequately with persons trained in the investigation of suspected child abuse and neglect and in the provision of services to abused and neglected children and their families.

(C) Within twenty-four hours of the receipt of a report of suspected child abuse or neglect or within twenty-four hours after the department has assumed legal custody of a child pursuant to Section 20-7-610(F) or (G) or within twenty-four hours after being notified that a child has been taken into emergency protective custody, the department must begin an appropriate and thorough investigation to determine whether a report of suspected child abuse or neglect is 'indicated' or 'unfounded'. The finding must be made No later than forty-five days from the receipt of the report. A single extension of no more than fifteen days may be granted by the director of the department, or the director's designee, for good cause shown, pursuant to guidelines adopted by the department. If the investigation cannot be completed because the department is unable to locate the child or family or for other compelling reason, the investigation may be reopened at a later date if the child or family is located or the compelling reason, the report may be classified as unfounded Category III and the investigation may be reopened at a later date if the child or family is located or the compelling reason for failure to complete the investigation is removed. The department must make a finding within forty-five days after the investigation is reopened.

This section does not require the department to investigate reports of child abuse or neglect which resulted in the death of the child unless there are other children residing in the home, or a resident of the home is pregnant, or the subject of the report is the parent, guardian, or person responsible for the welfare of another child regardless of whether that child resides in the home.

(D) The department may file with the family court an affidavit and a petition to support issuance of a warrant at any time after receipt of a report. The family court must issue the warrant if the affidavit and petition establish probable cause to believe the child is an abused or neglected child and that the investigation cannot be completed without issuance of the warrant. The warrant may authorize the department to interview the child, to inspect the condition of the child, to inspect the premises where the child may be located or may reside, and to obtain copies of medical, school, or other records concerning the child.

(E) The department or law enforcement, or both, may interview the child alleged to have been abused or neglected and any other child in the household during the investigation. The interviews may be conducted on school premises, at day care facilities, at the child's home or at other suitable locations and in the discretion of the department or law enforcement, or both, may be conducted outside the presence of the parents. To the extent reasonably possible, the needs and interests of the child must be accommodated in making arrangements

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

for interviews, including time, place, method of obtaining the child's presence, and conduct of the interview. The department or law enforcement, or both, must provide notification of the interview to the parents as soon as reasonably possible during the investigation if notice will not jeopardize the safety of the child or the course of the investigation. All state, law enforcement, and community agencies providing child welfare intervention in a child's life should coordinate their services to minimize the number of interviews of the child to reduce potential emotional trauma to the child.

(F) Reports of child abuse and neglect must be classified in the department's data system and records in one of three categories: Suspected, Unfounded, or Indicated. If the report is categorized as unfounded, the entry must further state the classification of unfounded reports as set forth in subsection (H). All initial reports must be considered suspected. Reports must be maintained in the category of suspected for no more than sixty days after the report was received by the department. By the end of the sixty-day time period, suspected reports must be classified as either unfounded or indicated pursuant to the agency's investigation.

(G)(1) Indicated findings must be based upon a finding of the facts available to the department that there is a preponderance of evidence that the child is an abused or neglected child. Indicated findings must include a description of the services being provided the child and those responsible for the child's welfare and all relevant dispositional information.

(2) If the family court makes a determination or the process described in Section 20-7-655 results in a determination that the indicated finding is not supported by a preponderance of evidence that there was any act of child abuse or neglect, the case classification must be converted to 'unfounded' and subsection (J) applies.

(3) If the family court makes a specific determination, or the process described in Section 20-7-655 results in a determination that there is not a preponderance of evidence that the person who was the subject of the report committed an act of child abuse or neglect, but that the child was abused or neglected by an unknown person, the department must maintain the case as an indicated case and access to records of the case may be granted as provided in Section 20-7-690. The department shall not delete from its data system or records information indicating that the person was the subject of the report. The department's data system and records must clearly record the results of the court or administrative proceeding. If the case record and data system included a designation with the name of the subject of the report indicating that the person committed the abuse or neglect, that designation must be removed following the determination that there is not a preponderance of evidence that the subject of the report committed an act of child abuse or neglect.

(H) All reports that are not indicated at the conclusion of the investigation and all records of information for which an investigation was not conducted pursuant to Section 20-7-510 must be classified as 'unfounded'. Unfounded reports must be further classified as Category I, Category II, Category III, or Category IV.

(1) Category I unfounded reports are those in which abuse and neglect were ruled out following the investigation. A report falls in this category if evidence of abuse or neglect as defined in this article was not found regardless of whether the family had other problems or was in need of services.

(2) Category II unfounded reports are those in which the investigation did not produce a preponderance of the evidence that the child is an abused or neglected child.

(3) Category III unfounded reports are those in which an investigation could not be completed because the department was unable to locate the child or family or for some other compelling reason.

(4) Category IV unfounded reports are records of information received pursuant to Section 20-7-510, but which were not investigated by the department.

(I) The Central Registry of Child Abuse and Neglect must not contain information from reports classified as unfounded.

(J) Information concerning reports classified as unfounded contained in the statewide data system and records must be maintained for not less than five years after the finding. Information contained in unfounded cases is not subject to disclosure under the Freedom of Information Act as provided for in Chapter 4, Title 30.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Access to and use of information contained in unfounded cases must be strictly limited to the following purposes and entities:

- (1) a prosecutor or law enforcement officer or agency, for purposes of investigation of a suspected false report pursuant to Section 20-7-567;
- (2) the department or a law enforcement officer or agency, for the purpose of investigating allegations of abuse or neglect;
- (3) the department or a law enforcement officer or agency, when information is received that allows the reopening of a Category III unfounded report pursuant to subsection (C);
- (4) as evidence in a court proceeding, if admissible under the rules of evidence as determined by a judge of competent jurisdiction;
- (5) a person who is the subject of a report in an action brought by a prosecutor or by the department, if otherwise subject to discovery under the applicable rules of procedure;
- (6) the department, for program improvement, auditing, and statistical purposes;
- (7) as authorized in Section 20-7-695; and
- (8) the Department of Child Fatalities pursuant to Section 20-7-5930.

(K) Except as authorized in this section, no person may disseminate or permit dissemination of information maintained pursuant to subsection (J). A person who disseminates or permits dissemination in violation of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand five hundred dollars or imprisoned not more than one year, or both. A person aggrieved by an unlawful dissemination in violation of this subsection may bring a civil action to recover damages incurred as a result of the unlawful act and to enjoin its dissemination or use.

(L) At a hearing pursuant to Section 20-7-736 or 20-7-738, at which the court orders that a child be taken or retained in custody or finds that the child was abused or neglected, the court:

(1) must order that a person be entered in the Central Registry of Child Abuse and Neglect if the court finds that there is a preponderance of evidence that the person physically or sexually abused or willfully or recklessly neglected the child. Placement on the Central Registry cannot be waived by any party or by the court. However, if the only form of physical abuse that is found by the court is excessive corporal punishment, the court only may order that the person be entered in the Central Registry if item (2) applies;

(2) may, except as provided for in item (1), order that the person be entered in the Central Registry if the court finds that there is a preponderance of evidence (a) that the person abused or neglected the child in any manner, including the use of excessive corporal punishment, and (b) that the nature and circumstances of the abuse indicate that the person would present a significant risk of committing physical or sexual abuse or willful or reckless neglect if the person were in a position or setting outside of the person's home that involves care of or substantial contact with children

(M) At the probable cause hearing, the court may order that the person be entered in the Central Registry if there is sufficient evidence to support the findings required by subsection (K).

(N) At any time following receipt of a report, the department may petition the family court for an order directing that the person named as perpetrator be entered in the Central Registry of Child Abuse and Neglect. The petition must have attached a written case summary stating facts sufficient to establish by a preponderance of the evidence that the person named as perpetrator abused or neglected the child and that the nature and circumstances of the abuse

indicate that the person named as perpetrator would present a significant risk of committing physical or sexual abuse or willful or reckless neglect if placed in a position or setting outside of the person's home that involves care of or substantial contact with children. The department must serve a copy of the petition and summary on the person named as perpetrator. The petition must include a statement that the judge must rule based on the facts stated in the petition unless the clerk of court or the clerk's designee receives a written request for a hearing from the person named as perpetrator within five days after service of the petition. The name, address,

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

and telephone number of the clerk of court or the clerk's designee must be stated in the petition. If the person named as perpetrator requests a hearing, the court must schedule a hearing on the merits of the allegations in the petition and summary to be held no later than five working days following the request.

(O) The department must seek an order placing a person in the Central Registry pursuant to subsection (K), (L), or (M) in all cases in which the department concludes that there is a preponderance of evidence that the person committed sexual abuse.

(P) The department is charged with providing, directing, or coordinating the appropriate and timely delivery of services to children found to be abused or neglected and those responsible for their welfare or others exercising temporary or permanent control over these children. Services must not be construed to include emergency protective custody provided for in Section 20-7-736.

(Q) In cases where a person has been placed in the Central Registry of Child Abuse and Neglect, the outcome of any further proceedings must be entered immediately by the department into the Central Registry of Child Abuse and Neglect. If it is determined that a report is unfounded, the department must immediately purge information identifying that person as a perpetrator from the registry and from department records as provided in Section 20-7-680(D) and (E).

(R) The department shall furnish to parents or guardians on a standardized form the following information as soon as reasonably possible after commencing the investigation:

- (1) the names of the investigators;
- (2) the allegations being investigated;
- (3) whether the person's name has been recorded by the department as a suspected perpetrator of abuse or neglect;
- (4) the right to inspect department records concerning the investigation;
- (5) statutory and family court remedies available to complete the investigation and to protect the child if the parent or guardian or subject of the report indicates a refusal to cooperate;
- (6) how information provided by the parent or guardian may be used.
- (7) the possible outcomes of the investigation; and
- (8) the telephone number and name of a department employee available to answer questions.

(S) The department must cooperate with law enforcement agencies within the area it serves and establish procedures necessary to facilitate the referral of child protection cases to the department. Where the facts indicating abuse or neglect also appear to indicate a violation of criminal law, the department must notify the appropriate law enforcement agency of those facts within twenty-four hours of the department's finding for the purposes of police investigation. The law enforcement agency must file a formal incident report at the time it is notified by the department of the finding. When the intake report is of alleged sexual abuse, the department must notify the appropriate law enforcement agency within twenty-four hours of receipt of the report to determine if a joint investigation is necessary. The law enforcement agency must file a formal incident report at the time it is notified of the alleged sexual abuse. The law enforcement agency must provide to the department copies of incident reports generated in any case reported to law enforcement by the department and in any case in which the officer responsible for the case knows the department is involved with the family or the child. The law enforcement officer must make reasonable efforts to advise the department of significant developments in the case, such as disposition in summary court, referral of a juvenile to the Department of Juvenile Justice, arrest or detention, trial date, and disposition of charges. The department must include in its records copies of incident reports provided under this section and must record the disposition of charges.

(T) The department actively must seek the cooperation and involvement of local public and private institutions, groups, and programs concerned with matters of child protection and welfare within the area it serves.

(U) The local office of the department responsible for the county of the mother's legal residence must provide, direct, or coordinate the appropriate and timely delivery of services to children born of incarcerated mothers

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

where no provision has been made for placement of the child outside the prison setting. Referral of these cases to the appropriate local office is the responsibility of the agency or institution with custody of the mother.

(V) In all instances, the agency must act in accordance with the policies, procedures, and regulations promulgated and distributed by the State Department of Social Services pursuant to this chapter.

Section 20-7-652. (A) Upon receipt of a report that a parent or other person responsible for the welfare of a child will not consent to health care needed by the child, the department shall investigate pursuant to Section 20-7-650. Upon a determination by a preponderance of evidence that adequate health care was withheld for religious reasons or other reasons reflecting an exercise of judgment by the parent or guardian as to the best interest of the child, the department may enter a finding that the child is in need of medical care and that the parent or other person responsible does not consent to medical care for religious reasons or other reasons reflecting an exercise of judgment as to the best interests of the child. The department may not enter a finding by a preponderance of evidence that the parent or other person responsible for the child has abused or neglected the child because of the withholding of medical treatment for religious reasons or for other reasons reflecting an exercise of judgment as to the best interests/ of the child. However, the department may petition the family court for an order finding that medical care is necessary to prevent death or permanent harm to the child. Upon a determination that a preponderance of evidence shows that the child might die or suffer permanent harm, the court may issue its order authorizing medical treatment without the consent of the parent or other person responsible for the welfare of the child. The department may move for emergency relief pursuant to family court rules when necessary for the health of the child.

(B) Proceedings brought under this section must be considered child abuse and neglect proceedings only for purposes of appointment of representation pursuant to Section 20-7-110.

(C) This section does not authorize intervention if the child is under the care of a physician licensed under Chapter 47, Title 40, who supports the decision of the parent or guardian as a matter of reasonable medical judgment.

Section 20-7-655. (A) The purpose of this section is to provide a child protective services appeals process for reports that have been indicated pursuant to Section 20-7-650 and are not being brought before the family court for disposition and for reports indicated and entered in the Central Registry pursuant to Section 20-7-670 and not being brought before the family court for disposition. The appeals hearing must be scheduled and conducted in accordance with the department's fair hearing regulations. This process is available only to the person determined to have abused or neglected the child.

(B) The state director shall appoint a hearing officer to conduct a contested case hearing for each case decision appealed. The hearing officer shall prepare recommended findings of fact and conclusions of law for review by the state director or the state director's designee who shall render the final decision. The designee under this subsection must not be a person who was involved in making the original case decision or who conducted the interim review of the original case decision. The purpose of the hearing is to determine whether there is a preponderance of evidence that the appellant was responsible for abuse or neglect of the child.

(C) If a person requests an appeal under this section and the family court has determined that the person is responsible for abuse or neglect of the child, an appeal pursuant to this section is not available. If the family court reaches such a determination after the initiation of the appeal provided for in this section, the department shall terminate the appeal upon receipt of an order that disposes of the issue. If a proceeding is pending in the family court that may result in a finding that will dispose of an appeal under this section, the department shall stay the appeal pending the court's decision.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(D) If the department determines that a report of suspected child abuse or neglect is indicated and the department is not taking the case to family court for disposition, or if the case was entered in the Central Registry pursuant to Section 20-7-670 and the department is not taking the case to family court for disposition, the department shall provide notice of the case decision by certified mail to the person determined to have abused or neglected the child. The notice must inform the person of the right to appeal the case decision and that, if he intends to appeal the decision, he must notify the department of his intent in writing within thirty days of receipt of the notice. The notice also must advise the person that the appeal process is for the purpose of determining whether a preponderance of evidence supports the case decision that the person abused or [neglected](#) the child. If the person does not notify the department of his intent to appeal in writing within thirty days of receipt of the notice, the right to appeal is waived by the person and the case decision becomes final.

(E) Within fourteen days after receipt of a notice of intent to appeal, an appropriate official of the department designated by the director must conduct an interim review of case documentation and the case determination. The interim review may not delay the scheduling of the contested case hearing. If the official conducting the interim review decides that the determination against the appellant is not supported by a preponderance of evidence, this decision must be reflected in the department's case record and database as provided in Section 20-7-650(G)(2) or (3). If the person's name was in the Central Registry as a result of a determination pursuant to Section 20-7-670 and the interim review results in a reversal of the decision that supports that entry, the person's name must be removed from the Central Registry.

(F) After a contested case hearing, if the state director or the director's designee decides that the determination against the appellant is not supported by a preponderance of evidence, this decision must be reflected in the department's case record and database as provided in Section 20-7-650(G)(2) or (3). If the person's name was in the Central Registry as a result of a determination pursuant to Section 20-7-670 and the state director or the director's designee reverses the decision that supports that entry, the person's name must be removed from the Central Registry. If the state director or the director's designee affirms the determination against the appellant, the appellant has the right to seek judicial review in the family court of the jurisdiction in which the case originated.

(G) An appellant seeking judicial review shall file a petition in the family court shall conduct a judicial review within thirty days after the final decision of the department. The appellant shall serve a copy of the petition upon the department. The family court shall conduct a judicial review in accordance with the standards of review provided for in Section 1-23-380. The court may enter judgment upon the pleadings and a certified transcript of the record which must include the evidence upon which the findings and decisions appealed are based. The judgment must include a determination of whether the decision of the department that a preponderance of evidence shows that the appellant abused or neglected the child should be affirmed or reversed. The appellant is not entitled to a trial de novo in the family court.

Section 20-7-660. (A) The Department of Social Services Protective Services shall inform all persons required to report under this article of the nature, problem, and extent of child abuse and neglect and of their duties and responsibilities in accordance with this article. The department also, on a continuing basis, shall conduct training programs for department staff and appropriate training for persons required to report under this article.

(B) The department, on a continuing basis, shall inform the public of the nature, problem, and extent of the child abuse and neglect and of the remedial and therapeutic services available to children and their families. The department shall encourage families to seek help consistent with Section 20-7-500.

(C) The department, on a continuing basis, shall actively publicize the appropriate telephone numbers to receive reports of suspected child abuse and neglect, including the twenty-four hour, statewide, toll-free telephone service and respective numbers of the county department offices.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Section 20-7-670. (A) The Department of Social Services is authorized to receive and investigate reports of abuse and neglect of children who reside in or receive care or supervision in residential institutions, foster homes, and child care facilities. Responsibility for investigating these entities must be assigned to a unit or units not responsible for selecting or licensing these entities. In no case does the Department of Social Services have responsibility for investigating allegations of abuse and neglect in institutions operated by the Department of Social Services.

(B) Foster homes subject to this section are those which are supervised by or recommended for licensing by the department or by child placing agencies. Indicated reports must be based upon a finding that abuse or neglect is supported by a preponderance of the evidence available to the department.

(C) The department shall promulgate regulations consistent with this authority. The regulations shall cover at a minimum investigation of reports, notice to the institutions and sponsoring agencies, and remedial action.

(D) The State Law Enforcement Division is authorized to receive and investigate reports of institutional abuse and neglect alleged to have occurred in any institution or foster home operated by the Department of Juvenile Justice and any institution or day care facility operated by the Department of Social Services. The State Law Enforcement Division may promulgate regulations consistent with this authority to receive and investigate these reports.

(E) The Department of Social Services may initiate proceedings in the circuit court to enjoin the operations of a foster home, an institution, or a child placing agency or to require other corrective action if necessary for the safety of the children. The department shall take whatever steps it considers necessary to inform potential reporters of abuse and neglect of its responsibilities under this section.

(F) The Department of Social Services must investigate an allegation of abuse or neglect of a child where the child is in the custody of or a resident of a residential treatment facility or Intermediate Care Facility for the mentally retarded licensed by the Department of Health and Environmental Control or operated by the Department of Mental Health.

(G) The Department of Social Services has access to facilities for the purpose of conducting investigations and has authority to request and receive written statements, documents, exhibits, and other information pertinent to an investigation including, but not limited to, hospital records. The appropriate officials, agencies, departments, and political subdivisions of the State must assist and cooperate with the court and the Department of Social Services in furtherance of the purposes of this section.

(H) The Department of Social Services may file with the family court an affidavit and a petition to support issuance of a warrant at any time during an investigation. The family court must issue the warrant if the affidavit and petition establish probable cause to believe the child is an abused or neglected child and that the investigation cannot be completed without issuance of the warrant. The warrant may authorize the department to interview the child, to inspect the premises of the child, to inspect the premises where the child may be located or may reside, and to obtain copies of medical, school, or other records necessary for investigation of the allegations of abuse or neglect.

(I) When the investigation performed pursuant to this section results in a determination that an individual has harmed a child or threatened a child with harm as defined in Section 20-7-490, the name of that individual must be entered immediately in the Central Registry of Child Abuse and Neglect. The department must notify the individual in writing

by certified mail that his name has been entered in the registry, of his right to request an appeal of the decision to enter his name in the registry, and of the possible ramifications regarding future employment and licensing if he allows his name to remain in the registry. The procedures set forth in Section 20-7-655 apply when an individual challenges the entry of his name in the registry, and challenges the entry in the registry pursuant to this subsection must be given expedited review in the appeals process.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Section 20-7-680. (A) The purpose of this section is to establish a system for the identification of abused and neglected children and those who are responsible for their welfare, to provide a system for the coordination of reports concerning abused and neglected children, and to provide data for determining the incidence and prevalence of child abuse and neglect in this State. To further these purposes, the department must maintain one or more statewide data systems concerning cases reported to it pursuant to this article.

(B) The Department of Social Services must maintain a Central Registry of Child Abuse and Neglect within the department's child protective services unit in accordance with Section 20-7-650, 20-7-670, and 17-25-135. Perpetrators of child abuse and neglect must be entered in the registry only by order of a court as provided for in Sections 20-7-650 and 17-25-135, or as provided for in Section 20-7-670. Each entry in the registry must be accompanied by information further identifying the person, including, but not limited to, the person's date of birth, address, and any other identifying characteristics, and describing the abuse or neglect committed by the person.

(C) The Department of Social Services must furnish annually to the Governor and the General Assembly a report on the incidence and prevalence of child abuse and neglect in South Carolina, the effectiveness of services provided throughout the State to protect children from this harm, and any other data considered instructive.

(D) The Central Registry of Child Abuse and Neglect must not contain information from reports classified as unfounded. Other department records and databases must treat unfounded cases as provided for in Section 20-7-650.

(E) The names, addresses, birth dates, identifying characteristics, and other information unnecessary for auditing and statistical purposes of persons named in department records of indicated cases other than the Central Registry of Child Abuse and Neglect must be destroyed seven years from the date services are terminated. This section does not prohibit the department from maintaining an 'indicated case' which contains identifying information on the child who is the subject of the indicated report and those responsible for the child's welfare without identifying a person as perpetrator and it does not prohibit the department from providing child protective services to the child who is the subject of an indicated report and those responsible for the child's welfare.

(F) Information in the central registry and other department records may be released only as authorized in Section 20-7-690 or as otherwise specifically authorized by statute. Information in records of the department other than the Central Registry of Child Abuse and Neglect must not be used for screening potential employees or volunteers of any public or private entity, except as specifically provided by Section 20-7-690 or as otherwise provided by statute. However, nothing in this section prevents the department from using other information in its records when making decisions associated with administration or delivery of the department's programs and services.

(G) When a statute or regulation makes determination of a person's history of child abuse or neglect a condition for employment or volunteer service in a facility or other entity regulated by the department, the person must be screened against the Central Registry of Child Abuse and Neglect before employment or service in the volunteer role. The person must be screened each time the license, registration, or other operating approval of the facility or other entity is renewed.

(H) When a statute or regulation makes determination of an applicant's history of child abuse or neglect, a condition for issuance of a license, registration, or other operating approval by the department, the applicant must be screened against the Central Registry of Child Abuse and Neglect before issuance of the initial license, registration, or other approval and each time the license, registration, or other operating approval is renewed.

Transfer Provisions

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(A) The data system which constituted the Central Registry of Child Abuse and Neglect prior to the effective date of this statute shall be incorporated into the statewide data systems of the department provided for in Section 20-7-680(A).

(B) Except as provided in subsection (C), information concerning perpetrators listed in the Central Registry of Child Abuse and Neglect prior to the effective date of this act must be placed in modified Central Registry of Child Abuse and Neglect created by Subarticle 7, Article 7, Chapter 7, Title 20 of the 1976 Code if there has been an affirmative determination that the perpetrator physically or sexually abused the child or willfully or recklessly neglected the child.

(C) Information concerning all cases indicated before January 1, 1993, shall be placed in the modified Central Registry of Child Abuse and Neglect created by Subarticle 7, Article 7, Chapter 7, Title 20 of the 1976 Code. At such time as the department receives a request for information concerning a perpetrator of child abuse or neglect in a case indicated prior to January 1, 1993, the department must review the records of the case. Information concerning the case may be released to the party requesting the information only if (1) the case was indicated for physical or sexual abuse or willful or reckless neglect and (2) the department's determination that the perpetrator abused or neglected the child was confirmed by a finding in family court or an administrative fair hearing or the subject of the report waived the opportunity for a family court determination or for an administrative review. Upon request of a person identified in the record as a perpetrator, the department may review records of cases indicated before January 1, 1993, and may decide whether confirmation or waiver occurred, whether the department should redesignate the person's status, or whether the department should provide a hearing pursuant to Section 20-7-655.

(D) For purposes of this section, "willful or reckless neglect" refers to cases of neglect in which criminal charges were filed against the perpetrator.

(E) No other case shall be placed in the modified Central Registry of Child Abuse and Neglect created by Subarticle 7, Article 7, Chapter 7, Title 20 of the 1976 Code unless the requirements of Sections 20-7-650, 20-7-670, or 17-25-510 have been met.

Section 20-7-690. (A) All reports made and information collected pursuant to this article maintained by the Department of Social Services and the Central Registry of Child Abuse and Neglect are confidential. A person who disseminates or permits the dissemination of these records and the information contained in these records except as authorized in this section, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand five hundred dollars or imprisoned not more than one year, or both.

(B) The department is authorized to grant access to the records of indicated cases to the following persons, agencies, or entities:

- (1) the ombudsman of the office of the Governor or the Governor's designee;
- (2) a person appointed as the child's guardian ad litem, the attorney for the child's guardian ad litem, or the child's attorney;
- (3) appropriate staff of the department;
- (4) a law enforcement agency investigating or prosecuting known or suspected abuse or neglect of a child or any other crime against a child, attempting to locate a missing child, investigating or prosecuting the death of a child, or investigating or prosecuting any other crime established in or associated with activities authorized under this article;
- (5) a person who is named in a report or investigation pursuant to this article as having abused or neglected a child, that person's attorney, and that person's guardian ad litem;
- (6) a child fourteen years of age or older who is named in a report as a victim of child abuse or neglect, except in regard to information that the department may determine to be detrimental to the emotional well-being of the child;
- (7) the parents or guardians of a child who is named in a report as a victim of child abuse or neglect;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- (8) county medical examiners or coroners who are investigating the death of a child;
 - (9) the State Child Fatality Advisory Committee and the Department of Child Fatalities in accordance with the exercise of their purposes or duties pursuant to Article 26, Chapter 7, Title 20;
 - (10) family courts conducting proceedings pursuant to this article;
 - (11) the parties to a court proceeding in which information in the records is legally relevant and necessary for the determination of an issue before the court, if before the disclosure the judge has reviewed the records in camera, has determined the relevancy and necessity of the disclosure, and has limited disclosure to legally relevant information under a protective order;
 - (12) a grand jury by subpoena upon its determination that access to the record is necessary in the conduct of its official business;
 - (13) authorities in other states conducting child abuse and neglect investigations or providing child welfare services;
 - (14) courts in other states conducting child abuse and neglect proceedings or child custody proceedings;
 - (15) the director or chief executive officer of a child day care facility, child placing agency, or child caring facility when the records concern the investigation of an incident of child abuse or neglect that allegedly was perpetrated by an employee or volunteer of the facility or agency against a child served by the facility or agency;
 - (16) a person or agency with authorization to care for, diagnose, supervise, or treat the child, the child's family, or the person alleged to have abused or neglected the child;
 - (17) any person engaged in bona fide research with the written permission of the state director or the director's designee, subject to limitations the state director may impose;
 - (18) multidisciplinary teams impaneled by the department or impaneled pursuant to statute;
 - (19) circuit solicitors and their agents investigating or prosecuting known or suspected abuse or neglect of a child or any other crime against a child, attempting to locate a missing child, investigating or prosecuting the death of a child, or investigating or prosecuting any other crime established in or associated with activities authorized under this article;
 - (20) prospective adoptive or foster parents before placement;
 - (21) the Division for the Review of the Foster Care of Children, Office of the Governor, for purposes of certifying in accordance with Section 20-7-2386 that no potential employee or no nominee to and no member of the state or a local foster care review board is a subject of an indicated report or affirmative determination.
 - (22) employees of the Division for the Review of the Foster Care of Children, Office of the Governor and members of local boards when carrying out their duties pursuant to Subarticle 4, Article 13; the department and the division shall limit by written agreement or regulation, or both, the documents and information to be furnished to the local boards.
 - (23) The Division of Guardian ad Litem, Office of the Governor, for purposes of certifying that no potential employee or volunteer is the subject of an indicated report or an affirmative determination.
- (C) The department may limit the information disclosed to individuals and entities named in subsection (B)(13) (14), (15), (16), (17), (18), and (20) to that information necessary to accomplish the purposes for which it is requested or for which it is being disclosed. Nothing in this subsection gives to these entities or persons the right to review or copy the complete case record.
- (D) When a request for access to the record comes from an individual identified in subsection (B)(5), (6), or (7) or that person's attorney, the department shall review any reports from medical care providers and mental health care providers to determine whether the report contains information that does not pertain to the case decision, to the treatment needs of the family as a whole, or to the care of the child. If the department determines that these conditions exist, before releasing the document, the department shall provide a written notice identifying the report to the requesting party and to the person whose treatment or assessment was the subject of the report. The notice may be mailed to the parties involved or to their attorneys or it may be

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

delivered in person. The notice shall state that the department will release the report after ten days from the date notice was mailed to all parties and that any party objecting to release may apply to the court of competent jurisdiction for relief. When a medical or mental health provider or agency furnishes copies of reports or records to the department and designates in writing that those reports or records are not to be further disclosed, the department must not disclose those documents to persons identified in subsection (B)(5), (6), or (7) or that person's attorney. The department shall identify to the requesting party the records or reports withheld pursuant to this subsection and shall advise the requesting party that he may contact the medical or mental health provider or agency about release of the records or reports.

(E) A disclosure pursuant to this section shall protect the identity of the person who reported the suspected child abuse or neglect. The department also may protect the identity of any other person identified in the record if the department finds that disclosure of the information would be likely to endanger the life or safety of the person. Nothing in this subsection prohibits the department from subpoenaing the reporter or other persons to court for the purpose of testimony if the department determines the individual's testimony is necessary to protect the child; the fact that the reporter made the report must not be disclosed.

(F) The department is authorized to summarize the outcome of an investigation to the person who reported the suspected child abuse or neglect if the person requests the information at the time the report is made. The department has the discretion to limit the information disclosed to the reporter based on whether the reporter has an ongoing professional or other relationship with the child or the family.

(G) The state director of the department or the director's designee may disclose to the media information contained in child protective services records if the disclosure is limited to discussion of the department's activities in handling the case including information placed in the public domain by other public officials, a criminal prosecution, the alleged perpetrator or the attorney for the alleged perpetrator, or other public judicial proceedings. For purposes of this subsection, information is considered 'placed in the public domain' when it has been reported in the news media, is contained in public records of a criminal justice agency, is contained in public records of a court of law, or has been the subject of testimony in a public judicial proceeding.

(H) The state director or the director's designee is authorized to prepare and release reports of the results of the department's investigations into the deaths of children in its custody or receiving child welfare services at the time of death.

(I) Nothing in this section may be construed to waive the confidential nature of the case record, to waive any statutory or common law privileges attaching to the department's internal reports or to information in case records, to create a right to access under the Freedom of Information Act, or to require the department to search records or generate reports for purposes of the Freedom of Information Act.

(J) The department is authorized to disclose information concerning an individual named in the Central Registry of Child Abuse and Neglect as a perpetrator when screening of an individual's background is required by statute or regulation for employment, licensing, or any other purposes, or a request is made in writing by the person being screened. Nothing in this section prevents the department from using other information in department records when making decisions concerning licensing, employment, or placement, or performing other duties required by this act. The department also is authorized to consult any department records in providing information to persons conducting preplacement investigations of prospective adoptive parents in accordance with Section 20-7-1740.

(K) The department is authorized to maintain in its child day care regulatory records information about investigations of suspected child abuse or neglect occurring in child day care facilities.

(1) The department must enter child abuse or neglect investigation information in its regulatory record from the beginning of the investigation and must add updated information as it becomes available. Information in the regulatory records must include at least the date of the report, the nature of the alleged abuse or neglect, the outcome of the investigation, any corrective action required, and the outcome of the corrective action plan.

(2) The department's regulatory records must not contain the identity of the reporter or of the victim child.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(3) The identity of the perpetrator must not appear in the record unless the family court has confirmed the department's determination or a criminal prosecution has resulted in conviction of the perpetrator.

(4) Nothing in this subsection may be construed to limit the department's authority to use information from investigations of suspected child abuse or neglect occurring in child day care facilities to pursue an action to enjoin operation of a facility as provided in Article 13, Subarticle 11.

(5) Record retention provisions applicable to the department's child protective services case records are not applicable to information contained in regulatory records concerning investigations of suspected child abuse or neglect occurring in child day care facilities.

(L) All reports made available to persons pursuant to this section must indicate whether or not an appeal is pending on the report pursuant to Section 20-7-655.

(M) The department may disclose to participants in a family group conference relevant information concerning the child or family or other relevant information to the extent that the department determines that the disclosure is necessary to accomplish the purpose of the family group conference. Participants in the family group conference must be instructed to maintain the confidentiality of information disclosed by the agency.

Section 20-7-695. (A) Notwithstanding other provisions of the law affecting confidentiality of child protective services records and use and disclosure of records of unfounded cases, records concerning unfounded reports must be retained and disclosed as provided in this section.

(B) The alleged perpetrator in an unfounded report who has reason to believe that the report was made maliciously or in bad faith has the right to request in writing that records of the report be retained by the department for up to two years from the date of the case decision. The written request must be received by the department within thirty days of the person's receiving notice of the case decision. A person exercising this right may request a copy of the record of the unfounded case and the department shall provide a copy of the record, subject to subsection (C).

(C) The department shall disclose to persons exercising the rights afforded them under this section whether the report was made anonymously. However, the identity of a reporter must not be made available to the person except by order of the family court.

(D) An alleged perpetrator in an unfounded case who believes the report was made maliciously or in bad faith may petition the family court to determine whether there is probable cause to believe that the reporter acted maliciously or in bad faith. The court shall determine probable cause based on an in camera review of the case record and oral or written argument, or both. If the court finds probable cause, the identity of the reporter must be disclosed to the moving party.

(E) Notwithstanding other provisions of the law affecting confidentiality of child protective services records and use and disclosure of records of unfounded cases, a court conducting civil or criminal proceedings resulting from disclosures authorized by this section may order the department to release the record to any party to the case or the law enforcement."

Removal proceedings and procedures; constitution of abuse of newborn child

Section 20-7-736. (A) The family court has exclusive jurisdiction over all proceedings held pursuant to this article.

(B) Upon investigation of a report received under Section 20-7-650 or at any time during the delivery of services by the department, the department may petition the family court to remove the child from custody of the parent, guardian, or other person legally responsible for the child's welfare if the department determines by a preponderance of evidence that the child is an abused or neglected child and that the child cannot be safely maintained in

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

the home in that he cannot be protected from unreasonable risk of harm affecting the child's life, physical health or safety, or mental well-being without removal. If a non-custodial parent is not named as a party in the removal petition, the agency shall exercise every reasonable effort to promptly notify the non-custodial parent that a removal proceeding has been initiated and of the date and time of any hearings scheduled pursuant to this section.

(C) The petition shall contain a full description of the reasons why the child cannot be protected adequately in the custody of the parent or guardian, including facts supporting the department's allegation that the child is an abused or neglected child as defined in Section 20-7-490 and that retention of the child in or return of the child to the home would place the child at unreasonable risk of harm affecting the child's life, physical health or safety, or mental well-being and the child cannot reasonably be protected from this harm without being removed, a description of the condition of the child, any previous efforts to work with the parent or guardian, in-home treatment programs which have been offered and proven inadequate, and the attitude of the parent or guardian towards placement of the child in an alternative setting. The petition also shall contain a statement of the harms the child is likely to suffer as a result of removal and a description of the steps that will be taken to minimize the harm to the child that may result upon removal.

(D) Whether or not the petition for removal includes a petition for termination of parental rights, the petition shall contain a notice informing the parents of the potential effect of the hearing on their parental rights and a notice to all interested parties that objections to the sufficiency of a placement plan, if ordered, or of any recommendations for provisions in the plan or court order must be raised at the hearing. The notice must be printed in boldface print or in all upper case letters and set off in a box.

If the petition includes a petition for termination of parental rights, the notice shall state: `As a result of this hearing, you could lose your rights as a parent.'

If the petition does not include a petition for termination of parental rights, the notice shall state: `At this hearing the court may order a treatment plan. If you fail to comply with the plan, you could lose your rights as a parent.'

(E) Upon receipt of a removal petition under this section, the family court shall schedule a hearing to be held within thirty-five days of the date of receipt to determine whether removal is necessary. The parties to the petition must be served with a summons and notices of right to counsel and the hearing date and time along with the petition. Personal jurisdiction over the parties is effected if they are served at least seventy-two hours before the hearing. No responsive pleading to the petition is required. The court may authorize service by publication in appropriate cases and may waive the thirty-five days requirement when necessary to achieve service. A party may waive service or appear voluntarily.

(F) The court shall not order that a child be removed from the custody of the parent or guardian unless the court finds that the allegations of the petition are supported by a preponderance of evidence including a finding that the child is an abused or neglected child as defined in Section 20-7-490 and that retention of the child in or return of the child to the home would place the child at unreasonable risk of harm affecting the child's life, physical health or safety, or mental well-being and the child cannot reasonably be protected from this harm without being removed.

(G) It is presumed that a newborn child is an abused or neglected child as defined in Section 20-7-490 and that the child cannot be protected from further harm without being removed from the custody of the mother upon proof that:

(1) a blood or urine test of the child at birth or a blood or urine test of the mother at birth shows the presence of any amount of a controlled substance or a metabolite of a controlled substance unless the presence of the substance or the metabolite is the result of medical treatment administered to the mother of the infant or the infant, or

(2) the child has a medical diagnosis of fetal alcohol syndrome; and

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(3) a blood or urine test of another child of the mother or a blood or urine test of the mother at the birth of another child showed the presence of any amount of a controlled substance or a metabolite of a controlled substance unless the presence of the substance or the metabolite was the result of medical treatment administered to the mother of the infant or the infant, or

(4) another child of the mother has the medical diagnosis of fetal alcohol syndrome.

This presumption may be rebutted by proof that the father or another adult who will assume the role of parent is available and suitable to provide care for the child in the home of the mother. The father or the other adult must be made a party to the action and subject to the court's order establishing the conditions for maintaining the child in the mother's home. This statutory presumption does not preclude the court from ordering removal of a child upon other proof of alcohol or drug abuse or addiction by the parent or person responsible for the child who has harmed the child or threatened the child with harm.

(H) The petition for removal may include a petition for termination of parental rights.

(I) If the court removes custody of the child, the court's order shall contain a finding by the court of whether reasonable efforts were made by the department to prevent removal of the child and a finding of whether continuation of the child in the home would be contrary to the welfare of the child. The order shall state:

(1) the services made available to the family before the removal of the child and how they related to the needs of the family;

(2) the efforts of the agency to provide these services to the family before removal;

(3) why the efforts to provide services did not eliminate the need for removal; and

(4) whether the efforts to eliminate the need for removal were reasonable including, but not limited to, whether they were reasonably available and timely, reasonably adequate to address the needs of the family, reasonably adequate to protect the child and realistic under the circumstances. If the department's first contact with the child occurred under such circumstances that reasonable services would not have allowed the child to remain safely in the home, the court shall find that removal of the child without services or without further services was reasonable."

Protective services while child remains in home

Section 20-7-738. (A) Upon investigation of a report under Section 20-7-650 or at any time during the delivery of services by the department, the department may petition the family court for authority to intervene and provide protective services without removal of custody if the department determines by a preponderance of evidence that the child is an abused or neglected child and that the child cannot be protected from harm without intervention.

(B) The petition shall contain a full description of the basis for the department's belief that the child cannot be protected adequately without department intervention, including a description of the condition of the child, any previous efforts by the department to work with the parent or guardian, treatment programs which have been offered and proven inadequate, and the attitude of the parent or guardian towards intervention and protective services.

(C) Upon receipt of a petition under this section, the family court shall schedule a hearing to be held within thirty-five days of the filing date of receipt to determine whether intervention is necessary.

The parties to the petition must be served with a summons and notices of right to counsel and of the hearing date and time along with the petition. Personal jurisdiction over the parties is effected if they are served at least seventy-two hours before the hearing. No responsive pleading to the petition is required. The court may authorize service by publication in appropriate cases and may waive the thirty-five days requirement when necessary to achieve service. A party may waive service or appear voluntarily.

(D) Intervention and protective services must not be ordered unless the court finds that the allegations of the petition are supported by a preponderance of the evidence including a finding that the child is an abused or

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

neglected child as defined in Section 20-7-490 and the child cannot be protected from further harm without intervention."

Court approval and review of treatment plans

Section 20-7-762. (A) At the close of a hearing pursuant to Section 20-7-738 or 20-7-736 and upon a finding that the child shall remain in the home and that protective services shall continue, the family court shall review and approve a treatment plan designed to alleviate any danger to the child and to aid the parents so that the child will not be endangered in the future.

(B) The plan must be prepared by the department and shall detail any changes in parental behavior or home conditions that must be made and any services which will be provided to the family to ensure, to the greatest extent possible, that the child will not be endangered. Whenever possible, the plan must be prepared with the participation of the parents, the child, and any other agency or individual that will be required to provide services. The plan must be submitted to the court at the hearing. If any changes in the plan are ordered, the department shall submit a revised plan to the court within two weeks of the hearing, with copies to the parties and legal counsel. Any dispute regarding the plan must be resolved by the court. The terms of the plan must be included as part of the court order. The court order shall specify a date when treatment goals must be achieved and court jurisdiction ends, unless the court specifically finds that the matter must be brought back before the court for further review before the case may be closed. If the order requires further court review before case closure, the order shall specify a time limit for holding the next hearing.

(C) Unless services are to terminate earlier, the department shall schedule a review hearing before the court at least once every twelve months to establish whether the conditions which required the initial intervention exist. If the conditions no longer exist, the court shall order termination of protective services, and the court's jurisdiction shall end. If the court finds that the conditions which required the initial intervention are still present, it shall establish:

- (1) what services have been offered to or provided to the parents;
- (2) whether the parents are satisfied with the delivery of services;
- (3) whether the department is satisfied with the cooperation given to the department by the parents;
- (4) whether additional services should be ordered and additional treatment goals established; and
- (5) the date when treatment goals must be achieved and court jurisdiction ends.

The court order shall specify a date upon which jurisdiction will terminate automatically, which must be no later than eighteen months after the initial intervention. Jurisdiction may be extended pursuant to a hearing on motion by any party, if the court finds that there is clear and convincing evidence that the child is threatened with harm absent a continuation of services.

Section 20-7-763. (A) When this chapter requires the department to make reasonable efforts to preserve or reunify a family and requires the family court to determine whether these reasonable efforts have been made, the child's health and safety must be the paramount concern.

(B) The family court may rule on whether reasonable efforts to preserve or reunify a family should be required in hearings regarding removal or custody, review of amendments to a placement plan, review of the status of a child in foster care, or permanency planning.

(C) The family court may authorize the department to terminate or forego reasonable efforts to preserve or reunify a family when the records of a court of competent jurisdiction show or when the family court determines that one or more of the following conditions exist:

- (1) the parent has subjected the child to one or more of the following aggravated circumstances:
 - (a) severe or repeated abuse;
 - (b) severe or repeated neglect;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- (c) sexual abuse;
- (d) acts that the judge may find constitute torture; or
- (e) abandonment;

(2) the parent has been convicted of or pled guilty or nolo contendere to murder of another child of the parent, or an equivalent offense, in this jurisdiction or another;

(3) the parent has been convicted of or pled guilty or nolo contendere to voluntary manslaughter of another child of the parent, or an equivalent offense, in this jurisdiction or another;

(4) the parent has been convicted of or pled guilty or nolo contendere to aiding, abetting, attempting, soliciting, or conspiring to commit murder or voluntary manslaughter pursuant to item (1), (2), or (3), or an equivalent offense, in this jurisdiction or another;

(5) physical abuse of a child of the parent resulted in the death or admission to the hospital for inpatient care of that child and the abuse is the act for which the parent has been convicted of or pled guilty or nolo contendere to committing, aiding, abetting, conspiring to commit, or soliciting (a) an offense against the person as provided for in Title 16, Chapter 3, (b) criminal domestic violence as defined in Section 16-25-65, or (d) the common law offense of assault and battery of a high and aggravated nature, or an equivalent offense in another jurisdiction;

(6) the parental rights of the parent to a sibling of the child have been terminated involuntarily;

(7) other circumstances exist that the court finds make continuation or implementation of reasonable efforts to preserve or reunify the family inconsistent with the permanent plan for the child.

(D) The department may proceed with efforts to place a child for adoption or with a legal guardian concurrently with making efforts to prevent removal or to make it possible for the child to return safely to the home.

(E) If the family court's decision that reasonable efforts to preserve or reunify a family are not required results from a hearing other than a permanency planning hearing, the court's order shall require that a permanency planning hearing be held within thirty days of the date of the order.

(F) In determining whether to authorize the department to terminate or forego reasonable efforts to preserve or reunify a family, the court must consider whether initiation or continuation of reasonable efforts to preserve or reunify the family is in the best interests of the child.

Removal and court approved placement plan after removal

Section 20-7-764. (A) If the court orders that a child be removed from the custody of the parent or guardian, the court must approve a placement plan. A plan must be presented to the court for its approval at the removal hearing or within ten days after the removal hearing. If the plan is presented subsequent to the removal hearing, the court shall hold a hearing on the plan if requested by a party. The plan must be a written document prepared by the department. To the extent possible, the plan must be prepared with the participation of the parents or guardian of the child, the child, and any other agency or individual that will be required to provide services in order to implement the plan.

(B) The placement plan shall include, but is not limited to:

(1) the specific reasons for removal of the child from the custody of the parent or guardian and the changes that must be made before the child may be returned, including:

(a) the nature of the harm or threatened harm that necessitated removal, a description of the problems or conditions in the home that caused the harm or threatened harm, and the reason why the child could not be protected without removal;

(b) the nature of the changes in the home and family situation that must be made in order to correct the problems and conditions that necessitated removal, time frames for accomplishing these objectives, and means for measuring whether the objectives have been accomplished. The objectives stated in this part of the plan must relate to problems and circumstances serious enough to justify removal. The plan must be oriented to

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

correcting these problems and circumstances in the shortest possible time in order to expedite the child's return to the home;

(c) specific actions to be taken by the parents or guardian of the child to accomplish the objectives identified in subitem (b) and time frames for taking these actions;

(2) Other conditions in the home that warrant state intervention, but would not alone have been sufficient to warrant removal, and the changes that must be made in order to terminate intervention, including:

(a) the nature of the harm or threatened harm that justifies state intervention and a description of the problems or conditions of the home that caused the harm or threatened harm;

(b) the nature of the changes in the home and family situation that must be made in order to correct the problems and conditions that caused the harm or threatened harm, time frames for accomplishing these objectives, and means for measuring whether the objectives have been accomplished;

(c) specific actions to be taken by the parents or guardian of the child to accomplish the objectives identified in subitem (b) and time frames for taking these actions;

(3) The social and other services to be provided or made available to the parents, guardian, or other relevant adult to assist the parents or guardian in accomplishing the objectives, including a specific finding as to the minimum number and frequency of contacts a caseworker with the department must have with the child while in foster care. For a child placed in foster care within the State, the caseworker must meet with the child, at a minimum, once a month, but based upon the particular needs and circumstances of the individual child, more frequent contacts may be ordered by the court;

(4) The financial responsibilities and obligations, if any, of the parents or guardian for the support of the child during the placement;

(5) The visitation rights and obligations of the parents, guardian, siblings, or other relatives of the child during the placement. The plan shall provide for as much contact as is reasonably possible and consistent with the best interests of the child between the child and the child's parents, guardian, siblings, and other appropriate relatives with whom the child has a close relationship including visitation and participation of the parents or guardian in the care of the child while the child is in placement;

(6) The nature and location of the placement of the child unless it is determined that disclosure of the location of the placement to the parents, guardian, or any other person would be contrary to the best interest of the child. In making its determination of whether disclosure of the location of the placement is in the best interest of the child, the department must consider evidence of sexual abuse, physical abuse, or substance abuse by an adult living in the child's home or evidence of criminal domestic violence in the child's home. When disclosure of the location of the placement is determined to be contrary to the best interest of the child, disclosure must not be made to the abusing party or to any member of the abusing party's household. The placement must be as close to the child's home as is reasonably possible, unless placement at a greater distance is necessary to promote the child's well-being. In the absence of good cause to the contrary, preference must be given to placement with a relative or other person who is known to the child and has a constructive and caring relationship with the child;

(7) The social and other supportive services to be provided to the child and the foster parents including counseling or other services to assist the child in dealing with the effects of separation from the child's home and family;

(8) If the parents or guardian were not involved in the development of the plan, the nature of the agency's efforts to secure parental participation;

(9) Notice to the parents or guardians that failure to substantially accomplish the objectives stated in the plan within the time frames provided may result in termination of parental rights, subject to notice and a hearing as provided in Subarticle 3, Article 11.

(C) The placement plan clearly shall state the conditions necessary to bring about return of the child and the reasonable efforts that will be made by the department to reunite the child with the child's family. `Reasonable

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

efforts' include location of the placement and visitation arrangements as well as services to the parents or guardian and the child.

(D) The court shall approve the plan only if it finds that:

(1) the plan is consistent with the court's order placing the child in the custody of the department;

(2) the plan is consistent with the requirements for the content of a placement plan set forth in subsection (B);

(3) if the parents or guardian of the child did not participate in the development of the plan, that the department made reasonable efforts to secure their participation; and

(4) the plan is meaningful and designed to address facts and circumstances upon which the court based the order of removal.

(E) The court shall include in its order and shall advise defendants on the record that failure to substantially accomplish the objectives stated in the plan within the time frames provided may result in termination of parental rights, subject to notice and a hearing as provided in Subarticle 3, Article 11.

(F) The department immediately shall give a copy of the plan to the parents or guardian of the child, and any other parties identified by the court including the child if the court considers it appropriate. If a copy of the plan is not given to the child, the department shall provide the child with age-appropriate information concerning the substance of the plan unless the court finds that disclosure of any part of the plan to the child would be inconsistent with the child's best interests. A copy of any part of the plan that directly pertains to the foster family or the foster child must be provided to the foster parents.

(G) The plan may be amended at any time if all parties agree regarding the revisions, and the revisions are approved by the court. The amended plan must be submitted to the court with a written explanation for the proposed change. The plan also may be amended by the court upon motion of a party after a hearing based on evidence demonstrating the need for the amendment. A copy of the amended plan immediately must be given to the parties specified in subsection (F). Any additions to the elements set forth in subsections (B)(1)(b) and (c) must relate to problems or conditions that are serious enough to justify removal of the child from the home based on the criteria in Section 20-7-736(F).

(H) Any objections to the sufficiency of a plan or the process by which a plan was developed must be made at the hearing on the plan. Failure to request a hearing or to enter an objection at the hearing constitutes a waiver of the objection. The sufficiency of the plan or of the process for developing the plan may not be raised as an issue in a proceeding for termination of parental rights under Subarticle 3, Article 11.

(I) Upon petition of a party in interest, the court may order the state or county director or other authorized representative of the department to show cause why the agency should not be required to provide services in accordance with the plan. The provisions of the plan must be incorporated as part of a court order issued pursuant to this section. A person who fails to comply with an order may be held in contempt and subject to appropriate sanctions imposed by the court."

Treatment plan requirements regarding substance abuse

Section 20-7-765. (A) When the conditions justifying removal pursuant to Section 20-7-736 include the addiction of the parent or abuse by the parent of controlled substances, the court may require as part of the placement plan ordered pursuant to Section 20-7-764:

(1) The parent successfully must complete a treatment program operated by the Department of Alcohol and Other Drug Abuse Services or another treatment program approved by the department before return of the child to the home;

(2) Any other adult person living in the home who has been determined by the court to be addicted to or abusing controlled substances or alcohol and whose conduct has contributed to the parent's addiction or abuse

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

of controlled substances or alcohol successfully must complete a treatment program approved by the department before return of the child to the home; and

(3) The parent or other adult, or both, identified in item (2) must submit to random testing for substance abuse and must be alcohol or drug free for a period of time to be determined by the court before return of the child. The parent or other adult identified in item (2) must continue random testing for substance abuse and must be alcohol or drug free for a period of time to be determined by the court after return of the child before the case will be authorized closed.

(B) Results of tests ordered pursuant to this section must be submitted to the department and are admissible only in family court proceedings brought by the department."

Permanency planning and court review

Section 20-7-766. (A) The family court must review the status of a child placed in foster care upon motion filed by the department to determine a permanent plan for the child. The permanency planning hearing must be held no later than one year after the date the child was first placed in foster care. At the initial permanency planning hearing, the court shall review the status of the child and the progress being made toward the child's return home or toward any other permanent plan approved at the removal hearing. The court's order shall make specific findings in accordance with this section.

(B) The department shall attach a supplemental report to the pleadings which contain at least:

- (1) that information necessary to support findings required in subsection (G);
- (2) the recommended permanent plan and suggested timetable for attaining permanence; and
- (3) any reports of the local foster care review board which pertain to the child. The department may use the same form for the supplemental report, reports from the department to the local foster care review board, and reports compiled for internal department reviews.

(C) If the court determines at the permanency planning hearing that the child may be safely maintained in the home in that the return of the child to the child's parent would not cause an unreasonable risk of harm to the child's life, physical health or safety, or mental well-being, the court shall order the child returned to the child's parent. The court may order a specified period of supervision and services not to exceed twelve months. When determining whether the child should be returned, the court shall consider all evidence and the supplemental report including whether the parent has substantially complied with the terms and conditions of the plan approved pursuant to Section 20-7-764.

(D) Except as provided in subsection (E), if the court determines at the permanency planning hearing that the child should not be returned to the child's parent at that time, the court's order shall require the department to file a petition to terminate parental rights to the child not later than sixty days after receipt of the order. If a petition to terminate parental rights is to be filed, the department must exercise and document every reasonable effort to promote and expedite the adoptive placement and adoption of the child, including a thorough adoption assessment and child-specific recruitment. Adoptive placements must be diligently sought for the child and failure to do so solely because a child is classified as 'special needs' is expressly prohibited. No adoption may be delayed or denied solely on these special needs. If the department demonstrates to the court that terminating parental rights is clearly not in the child's best interest and one or more of the conditions specified under subsection (F) exists, a different disposition may be required. For purposes of this subsection:

- (1) 'thorough adoption assessment' means conducting and documenting face-to-face interviews with the child, foster care providers, and other significant parties; and
- (2) 'child specific recruitment' means recruiting an adoptive placement targeted to meet the individual needs of the specific child including, but not be limited to, use of the media, use of photo listings, and any other in-

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

state or out-of-state resources which may be utilized to meet the specific needs of the child, unless there are extenuating circumstances that indicate that these efforts are not in the best interest of the child.

(E) If the court determines that the child may be returned to the parent as provided for in subsection (C) within a specified reasonable time not to exceed six months and that the best interests of the child will be served and if the court finds that initiating termination of parental rights is not in the best interests of the child, the court may order an extension of the plan approved pursuant to Section 20-7-764 or may order compliance with a modified plan.

(F) After assessing the viability of adoption, if the department demonstrates that termination of parental rights is clearly not in the child's best interest, and if the court determines that the:

(1) best interest of the child would be served, the court may order that custody or legal guardianship, or both, be placed with a suitable member of the child's extended family or a suitable nonrelative; however, a home study on the relative or nonrelative must be submitted to the court for consideration before placement. The court may order a specified period of supervision and services not to exceed twelve months;

(2) child has special needs or circumstances and that a permanent foster caregiver has been identified by the department, the court may order that the child be placed in permanent foster care with a specified caregiver. If the child is under fourteen years of age, the special needs or circumstances must be shown by clear and convincing evidence;

(3) child has attained the age of sixteen, reasonable efforts to place the child adoptively have been exhausted, and the child is unwilling to accept or unable to adapt to a permanent placement, the court may extend foster care to provide services needed to assist the child to make the transition to independent living; or

(4) child has physical, mental, or psychological problems or special treatment needs and must remain in a specialized foster care setting or that the child is unwilling to accept or unable to adapt to a permanent placement, the court may extend foster care pending implementation of a permanent plan.

(G) If the child is not returned to the parent, in addition to the findings required under subsection (D) or (F), the court shall specify in its order:

(i) what services have been provided to or offered to the parents to facilitate reunification;

(ii) the compliance or lack of compliance by all parties to the plan approved pursuant to Section 20-7-764;

(iii) the extent to which the parents have visited or supported the child and any reasons why visitation or support has not occurred or has been infrequent;

(iv) whether previous services should continue and whether additional services are needed to facilitate reunification, identifying the services and specifying the expected date for completion, which must be less than six months from the date of the order;

(v) whether return of the child can be expected and identification of the changes the parent must make in circumstances, conditions, or behavior to remedy the causes of the child's placement or retention in foster care;

(vi) whether the child's foster care is to continue for a specified time and, if so, how long;

(vii) if the child has attained the age of sixteen, the services needed to assist the child to make the transition to independent living;

(viii) whether the child's current placement is safe and appropriate;

(ix) whether the department has made reasonable efforts to assist the parents in remedying the causes of the child's placement or retention in foster care; and

(x) the steps the department is taking to promote and expedite the adoptive placement and to finalize the adoption of the child, including documentation of child specific recruitment efforts.

(H) After the permanency planning hearing, if the child is retained in foster care, future permanency planning hearings must be conducted in accordance with this subsection.

If the child is retained in foster care and the agency is required to initiate termination of parental rights proceedings, the termination of parental rights hearing may serve as the next permanency planning hearing.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

If the child is retained in permanent foster care with an identified caregiver, no further permanency planning hearings are necessary if the child is fourteen years of age or older.

If the court ordered extended foster care for the purpose of reunification with the parent, the court must select a permanent plan for the child other than another extension for reunification purposes at the next permanency planning hearing. The hearing must be held on or before the date specified in the plan for expected completion of the plan; in no case may the hearing be held any later than six months from the date of the last court order. The court also must fulfill the remaining requirements of subsections (A) through (G).

After the termination of parental rights hearing, the requirements of Section 20-7-1574 must be met. Permanency planning hearings must be held annually, starting with the date of the termination of parental rights hearing. No further permanency planning hearings may be required after filing a decree of adoption of the child.

If the court places custody or guardianship with the parent, extended family member, or suitable nonrelative and a period of services and supervision is authorized, services and supervision automatically terminate on the date specified in the court order. Before the termination date, the department or the guardian ad litem may file a petition with the court for a review hearing on the status of the placement. Filing of the petition stays termination of the case until further order from the court. If the court finds clear and convincing evidence that the child will be threatened with harm if services and supervision do not continue, the court may extend the period of intervention for a specified time. The court's order shall specify the services and supervision necessary to reduce or eliminate the risk of harm to the child.

If the child is retained in foster care to pursue a plan of independent living, future permanency planning hearings must be held annually.

If the child is retained in foster care because of special needs or characteristics of the child as specified in subsection (F)(5), and the child is ten years of age or under, future permanency planning hearings must be held every six months to determine whether these special needs or characteristics still exist or whether another disposition is appropriate.

If the child is retained in foster care because of special needs or characteristics of the child specified in subsection (F)(5) and the child is more than ten years of age, future permanency planning hearings must be held annually to determine whether these special needs or characteristics still exist or whether another disposition is appropriate.

(I) A supplemental report must be attached to a motion filed pursuant to subsection (A). The supplemental report and notice of the hearing must be served upon all named parties at least forty days before the hearing.

(J) A named party, the child's guardian ad litem, or the local foster care review board may file a motion for review of the case at any time. Any other party in interest may move to intervene in the case pursuant to the rules of civil procedure and if the motion is granted, may move for review. Parties in interest include, but are not limited to, the individual or agency with legal custody or placement of the child and the foster parent. The notice of motion and motion for review must be served on the named parties at least ten days before the hearing date. The motion shall state the reason for review of the case and the relief requested.

(K) The pendency of an appeal concerning a child in foster care does not deprive the court of jurisdiction to hear a case pursuant to this section. The court shall retain jurisdiction to review the status of the child and may act on matters not affected by the appeal.

Section 20-7-767. (A) To protect and nurture children in foster care, the Department of Social Services and its employees shall:

(1) adhere strictly to the prescribed number of personal contacts, pursuant to Section 20-7-764(B)(3). These contacts must be personal, face-to-face visits between the caseworker or member of the casework team and the foster child. These visits may be conducted in the foster home and in the presence of other persons who reside in the foster home; however, if the caseworker suspects that the child has been abused or neglected during the

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

placement with the foster parent, the caseworker must observe and interview the child outside the presence of other persons who reside in the foster home;

(2) ensure that a caseworker interviews the foster parent, either in person or by telephone, at least once each month. No less frequently than once every two months, ensure that a caseworker or member of the casework team interviews the foster parent face-to-face during a visit in the foster home;

(3) ensure that a caseworker interviews other adults residing in the foster home, as defined in Section 20-7-30(8), face-to-face at least once each quarter. A foster parent must notify the department if another adult moves into the home, and the caseworker must interview the adult face-to-face within one month after receiving notice. Interviews of foster parents pursuant to item (2) and of other adults residing in the home pursuant to this item may be conducted together or separately at the discretion of the department;

(4) ensure that its staff visit in the foster home and interview the foster parent or other adults in the home more frequently when conditions in the home, circumstances of the foster children, or other reasons defined in policy and procedure suggest that increased oversight or casework support is appropriate. When more than one caseworker is responsible for a child in the foster home, the department may assign one caseworker to conduct the required face-to-face interview with the other adults residing in the foster home;

(5) provide to the foster child, if age appropriate, a printed card containing a telephone number the child may use to contact a designated unit or individual within the Department of Social Services and further provide an explanation to the child that the number is to be used if problems occur which the child believes his or her caseworker cannot or will not resolve;

(6) strongly encourage by letter of invitation, provided at least three weeks in advance, the attendance of foster parents to all Foster Care Review Board proceedings held for children in their care. If the foster parents are unable to attend the proceedings, they must submit a progress report to the Office of the Governor, Division of Foster Care Review Board, at least three days prior to the proceeding. Failure of a foster parent to attend the Foster Care Review Board proceeding or failure to submit a progress report to the Division of Foster Care Review, does not require the board to delay the proceeding. The letter of invitation and the progress report form must be supplied by the agency;

(7) be placed under the full authority and sanctions and enforcement by the family court pursuant to Section 20-7-420(30) and Section 20-7-420(36) for failure to adhere to the requirements of this subsection.

(B) If the department places a child in foster care in a county which does not have jurisdiction of the case, the department may designate a caseworker in the county of placement to make the visits required by subsection (A).

(C) In fulfilling the requirements of subsection (A), the Department of Social Services shall reasonably perform its tasks in a manner which is least intrusive and disruptive to the lives of the foster children and their foster families.

(D) The Department of Social Services, in executing its duties under subsection (A)(4), must provide a toll free telephone number which must operate twenty-four hours a day.

(E) Any public employee in this State who has actual knowledge that a person has violated any of the provisions of subsection (A) must report those violations to the state office of the Department of Social Services; however, the Governor's Division of Foster Care Review must report violations of subsection (A)(4) in their regular submissions of advisory decisions and recommendations which are submitted to the family court and the department. Any employee who knowingly fails to report a violation of subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(F) Foster parents have a duty to make themselves reasonably available for the interviews required by subsection (A)(2) and to take reasonable steps to facilitate caseworkers' interviews with other adults who reside in the home as required by subsection (A)(3). Failure to comply with either the duties in this subsection or those in subsection (A)(3) constitutes grounds for revocation of a foster parent's license or other form of

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

approval to provide care to children in the custody of the department. Revocation would depend on the number of instances of noncompliance, the foster parents' willfulness in noncompliance, or other circumstances indicating that noncompliance by the foster parents significantly and unreasonably interferes with the department's ability to carry out its protective functions under this section.

(G) To further this state's long-term goals and objectives on behalf of children in foster care, the Department of Social Services shall give to the General Assembly by January 15, 1999, a report of the status of the foster care system which includes improvements the department has made to ensure the safety and quality of life of South Carolina's foster children. This report must include:

- (1) specific standards for the training of foster parents, including the type of training which is provided;
- (2) standards which address emergency situations affecting the maximum number of children placed in each foster home;
- (3) standards which provide for the periodic determination of the medical condition of a child during his stay in foster care; and
- (4) methods the department has developed to encourage the receipt of information on the needs of children in foster care from persons who have been recently emancipated from the foster care system.

Section 20-7-768. (A) When a child is in the custody of the department, the department shall file a petition to terminate parental rights or shall join as a party in a termination petition filed by another party if:

- (1) a child has been in foster care under the responsibility of the State for fifteen of the most recent twenty-two months;
- (2) a court of competent jurisdiction has determined the child to be an abandoned infant;
- (3) a court of competent jurisdiction has determined that the parent has committed murder of another child of the parent or has committed voluntary manslaughter of another child of the parent;
- (4) a court of competent jurisdiction has determined that the parent has aided, abetted, conspired or solicited to commit murder or voluntary manslaughter of another child of the parent;
- (5) a court of competent jurisdiction has determined that the parent has committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent.

(B) Concurrently with filing of the petition, the department shall seek to identify, recruit, process, and approve a qualified family for adoption of the child if an adoptive family has not yet been selected and approved.

(C) This section does not apply:

(1) to a child for whom the family court has found that initiation of termination of parental rights is not in the best interests of the child, after applying the criteria of Section 20-7-766(C), (E), or (F) to select a permanent plan for the child from Section 7-766(C), (E), or (F), and that this finding and permanent plan constitute a compelling reason for not initiating termination of parental rights;

(2) if the family court finds that the department has not afforded services to the parents provided for in the treatment plan approved pursuant to Section 20-7-764 in a manner that was consistent with the time periods in the plan, or that court hearings have been delayed in such a way as to interfere with the initiation, delivery, or completion of services, but only if:

- (a) the parent did not delay the court proceedings without cause or delay or refuse the services;
- (b) successful completion of services in question may allow the child to be returned as provided for in Section 20-7-766(C) within the extension period; and
- (c) the case is not one for which the court has made a determination that reasonable efforts to preserve or reunify the family are not necessary pursuant to Section 20-7-763.

Section 20-7-770. (A) Beginning on January 1, 2000, or on the date of compliance with subsection (D), whichever is later, and on the first day of each month thereafter, each county clerk of court must make a report

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

to Court Administration concerning each child protection case pending in family court in which a permanency planning order has not been filed. The report must include the case caption, the filing date, and, if applicable, the date of the permanency planning hearing and the permanency planning order. The clerk is not required to make a report concerning a case after a permanency planning order has been filed in the case.

(B) Court Administration must provide the Administrative Judge of the family court of each circuit with the information reported concerning cases pending in the circuit.

(C) On August fifteenth of each year, the Director of Court Administration must file with the Chief Justice of the South Carolina Supreme Court, with copies to the Department of Social Services and the Governor, a written report summarizing the information reported by the clerks of court pursuant to this section. The report shall contain, at a minimum, the following information summarized by county, by circuit, and by State:

- (1) The number of new cases brought by the department during the preceding twelve months; and
- (2) The number of cases filed more than twelve months in which a permanency planning order has not been filed.

The annual report must contain an analysis of the progress of these cases through the family court, identify impediments to complying with statutory mandates, and make recommendations for improving compliance.

(D) No later than January 1, 2000, the Court Administration must institute the use of a separate code to identify child protection cases in its data systems. However, if the Chief Justice, upon recommendation of Court Administration, determines that there is a compelling reason why it is not feasible to institute the use of a separate code by January 1, 2000, compliance with this subsection may be deferred for up to twelve months, as necessary, for making adjustments in the data systems. The date of compliance and the compelling reason for any delay beyond January 1, 2000, shall be included in the report required by subsection (E).

(E) Court Administration shall conduct a study of the feasibility of collecting additional data necessary to monitor and ensure compliance with statutory time frames for conducting hearings in department cases, and no later than July 1, 2000, shall submit a report to the Chief Justice, with copies to the Department of Social Services and the Governor, containing recommendations for instituting the necessary data collection system.

Section 20-7-775. The department shall disclose to the foster parent at the time the department places the child in the home all information known by the person making the placement or reasonably accessible to the person making the placement which could affect either the ability of the foster parent to care for the child or the health and safety of the child or the foster family. This information includes, but is not limited to, medical and mental health conditions and history of the child, the nature of abuse or neglect to which the child has been subjected, behavioral problems, and matters related to educational needs. If a person lacking this necessary information made the placement, a member of the child's casework team or the child's caseworker shall contact the foster parent and provide the information during the first working day following the placement. The child's caseworker shall research the child's record and shall supplement the information provided to the foster parent no later than the end of the first week of placement if additional information is found. When the child's caseworker acquires new information which could affect either the ability of the foster parent to care for the child or the health and safety of the child or the foster family, the department shall disclose that information to the foster parent. The obligation to provide this information continues until the placement ends.

Section 20-7-1515. In determining the best interests of the child, the court must consider the child's reasonable preference for custody. The court shall place weight upon the preference based upon the child's age, experience, maturity, judgment, and ability to express a preference.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Section 7-1530. (A) In making a decision regarding custody of a minor child, in addition to other existing factors specified by law, the court must give weight to evidence of domestic violence as defined in Section 16-25-20 or Section 16-25-65 including, but not limited to:

- (1) physical or sexual abuse; and
- (2) if appropriate, evidence of which party was the primary aggressor, as defined in Section 16-25-70.

(B) The absence or relocation from the home by a person, against whom an act of domestic violence has been perpetrated, if that person is not the primary aggressor, must not be considered by the court to be sufficient cause, absent other factors, to deny custody of the minor child to that person.

Visitation in domestic violence cases

Section 20-7-1557. (A) A court may award visitation to a person who has been found by a general sessions, magistrates, municipal, or family court to have committed domestic violence, as defined in Section 16-25-20 or Section 16-25-65, or in cases in which complaints were made against both parties, to the person found by a general sessions, magistrates, municipal, or family court to be the primary aggressor under Section 16-25-70, only if the court finds that adequate provision for the safety of the child and the victim of domestic violence can be made.

(B) In a visitation order, a court may:

- (1) order an exchange of a child to occur in a protected setting;
- (2) order visitation supervised by another person or agency;
- (3) order a person who has been found by a general sessions, magistrates, municipal, or family court to have committed domestic violence, or in cases in which complaints were made against both parties, the person found by the court to have been the primary aggressor, to attend and complete, to the satisfaction of the court, a program of intervention for offenders or other designated counseling as a condition of the visitation;
- (4) order a person who has been found by a general sessions, magistrates, municipal, or family court to have committed domestic violence, or in cases in which complaints were made against both parties, the person found by the court to have been the primary aggressor, to abstain from possession or consumption of alcohol or controlled substances during the visitation and for twenty-four hours preceding the visitation;
- (5) order a person who has been found by a general sessions, magistrates, municipal, or family court to have committed domestic violence, or in cases in which complaints were made against both parties, the person found by a general sessions, magistrates, municipal, or family court to be the primary aggressor, to pay a fee to defray the costs of supervised visitation;
- (6) prohibit the overnight visitation;
- (7) require a bond from a person who has been found by a general sessions, magistrates, municipal, or family court to have committed domestic violence, or in cases in which complaints were made against both parties, from the person found by a general sessions magistrates, municipal, or family court to be the primary aggressor, for the return and safety of the child if that person has made a threat to retain the child unlawfully;
- (8) impose any other condition that is considered necessary to provide for the safety of the child, the victim of domestic violence, and any other household member.

(C) If a court allows a household member to supervise visitation, the court must establish conditions to be followed during the visitation.

(D) A judge may, upon his own motion or upon the motion of any party, prohibit or limit the visitation when necessary to ensure the safety of the child or the parent who is a victim of domestic violence.

(E) If visitation is not allowed or is allowed in a restricted manner to provide for the safety of a child or parent who is a victim of domestic violence, the court may order the address of the child and the victim to be kept confidential.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(F) The court must order a person who has been found by a general sessions, magistrates, municipal, or family court to have committed domestic violence, or in cases in which complaints were made against both parties, the person found by a general sessions, magistrates, municipal or family court to be the primary aggressor, to pay the actual cost of any medical or psychological treatment for a child who is physically or psychologically injured as a result of one or more acts of domestic violence.

Termination of parental rights

Section 20-7-1560. The purpose of this subarticle is to establish procedures for the reasonable and compassionate termination of parental rights where children are abused, neglected, or abandoned in order to protect the health and welfare of these children and make them eligible for adoption by persons who will provide a suitable home environment and the love and care necessary for a happy, healthful, and productive life.

Section 20-7-1562. The family court has exclusive jurisdiction over all proceedings held pursuant to this subarticle. For purposes of this subarticle jurisdiction may continue until the child becomes eighteen years of age, unless emancipated earlier.

Section 20-7-1564. A petition seeking termination of parental rights may be filed by the Department of Social Services or any interested party.

Section 20-7-1566. A petition for the termination of parental rights must set forth the:

- (1) basis of the court's jurisdiction;
- (2) name, sex, date, and place of birth of the child, if known;
- (3) name and address of the petitioner and the petitioner's relationship to the child;
- (4) names, dates of birth, and addresses of the parents, if known;
- (5) names and addresses of a:
 - (i) legal guardian of the child; or
 - (ii) person or agency having legal custody of the child; and
- (6) grounds on which termination of parental rights are sought and the underlying factual circumstances.

Section 20-7-1568. A summons and petition for termination of parental rights must be filed with the court and served on:

- (1) the child;
- (2) the parents of the child; and
- (3) an agency with placement or custody of the child.

Section 20-7-1570. (A) Parents, guardians, or other persons subject to a termination of parental rights action are entitled to legal counsel. Those persons unable to afford legal representation must be appointed counsel by the family court, unless the defendant is in default.

(B) A child subject to any judicial proceeding under this subarticle must be appointed a guardian ad litem by the family court. If a guardian ad litem who is not an attorney finds that appointment of counsel is necessary to protect the rights and interests of the child, an attorney must be appointed. If the guardian ad litem is an attorney, the judge shall determine on a case by case basis whether counsel is required for the guardian ad litem. However, counsel must be appointed for the guardian ad litem in any case that is contested.

Section 20-7-1572. The family court may order the termination of parental rights upon a finding of one or more of the following grounds and a finding that termination is in the best interest of the child:

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(1) The child or another child in the home has been harmed as defined in Section 20-7-490, and because of the severity or repetition of the abuse or neglect, it is not reasonably likely that the home can be made safe within twelve months. In determining the likelihood that the home can be made safe, the parent's previous abuse or neglect of the child or another child in the home may be considered;

(2) The child has been removed from the parent pursuant to Section 20-7-610 or Section 20-7-736, has been out of the home for a period of six months following the adoption of a placement plan by court order or by agreement between the department and the parent, and the parent has not remedied the conditions which caused the removal;

(3) The child has lived outside the home of either parent for a period of six months, and during that time the parent has willfully failed to visit the child. The court may attach little or no weight to incidental visitations, but it must be shown that the parent was not prevented from visiting by the party having custody or by court order. The distance of the child's placement from the parent's home must be taken into consideration when determining the ability to visit;

(4) The child has lived outside the home of either parent for a period of six months, and during that time the parent has willfully failed to support the child. Failure to support means that the parent has failed to make a material contribution to the child's care. A material contribution consists of either financial contributions according to the parent's means or contributions of food, clothing, shelter, or other necessities for the care of the child according to the parent's means. The court may consider all relevant circumstances in determining whether or not the parent has willfully failed to support the child, including requests for support by the custodian and the ability of the parent to provide support;

(5) The presumptive legal father is not the biological father of the child, and the welfare of the child can best be served by termination of the parental rights of the presumptive legal father;

(6) The parent has a diagnosable condition unlikely to change within a reasonable time including, but not limited to, alcohol or drug addiction, mental deficiency, mental illness, or extreme physical incapacity, and the condition makes the parent unlikely to provide minimally acceptable care of the child. It is presumed that the parent's condition is unlikely to change within a reasonable time upon proof that the parent has been required by the department or the family court to participate in a treatment program for alcohol or drug addiction, and the parent has failed two or more times to complete the program successfully or has refused at two or more separate meetings with the department to participate in a treatment program;

(7) The child has been abandoned as defined in Section 20-7-490(21);

(8) The child has been in foster care under the responsibility of the State for fifteen of the most recent twenty-two months; or

(9) The physical abuse of a child of the parent resulted in the death or admission to the hospital for in-patient care of that child and the abuse is the act for which the parent has been convicted of or pled guilty or nolo contendere to committing, aiding, abetting, conspiring to commit, or soliciting an offense against the person as provided for in Title 16, Chapter 3, criminal domestic violence as defined in Section 16-25-20, criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65, or the common law offense of assault and battery of a high and aggravated nature.

(10) conception of a child as a result of the criminal sexual conduct of a biological parent, as found by a court of competent jurisdiction, is grounds for terminating the rights of that biological parent, unless the sentencing court makes specific findings on the record that the conviction resulted from consensual sexual conduct where neither the victim nor the actor were younger than fourteen years of age nor older than eighteen years of age at the time of the offense.

Section 20-7-1574. (A) If the court finds that a ground for termination, as provided for in Section 20-7-1572, exists, the court may issue an order forever terminating parental rights to the child. Where the petitioner is an authorized agency, the court shall place the child in the custody of the petitioner or other child-placing agency

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

for adoption and shall require the submission of a plan for permanent placement of the child within thirty days after the close of the proceedings to the court and to the child's guardian ad litem. Within an additional sixty days the agency shall submit a report to the court and to the guardian ad litem on the implementation of the plan. The court, on its own motion, may schedule a hearing to review the progress of the implementation of the plan.

(B) If the court finds that no ground for termination exists and the child is in the custody of the Department of Social Services, the order denying termination must specify a new permanent plan for the child or order a hearing on a new permanent plan.

(C) If the court determines that an additional permanency hearing is not needed, the court may order:

(1) the child returned to the child's parent if the parent has counterclaimed for custody and the court determines that the return of the child to the parent would not cause an unreasonable risk of harm to the child's life, physical health or safety, or mental well-being. The court may order a specified period of supervision and services not to exceed twelve months.

(2) a disposition provided for in Section 20-7-766(E) if the court determines that the child should not be returned to a parent.

(D) If the court determines that an additional permanency hearing is required, the court's order shall schedule a permanency hearing to be held within fifteen days of the date the order is filed. The court's order must be sufficient to continue jurisdiction over the parties without any need for filing or service of pleadings by the department.

The permanency hearing must be held before the termination of parental rights trial judge if reasonably possible.

At the hearing, the department shall present a proposed disposition and permanent plan in accordance with Section 20-7-766. No supplemental report may be required. The hearing and any order issuing from the hearing shall conform to Section 20-7-766.

If the court approves retention of the child in foster care pursuant to Section 20-7-766(E)(iii), any new plan for services and placement of the child must conform to the requirements of Section 20-7-764. Section 20-7-764 requires the plan to address conditions that necessitated removal of the child, but the plan approved pursuant to this subsection shall address conditions that necessitate retention of the child in foster care.

Section 20-7-1576. (A) An order terminating the relationship between parent and child under this subarticle divests the parent and the child of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other, except the right of the child to inherit from the parent. A right of inheritance is terminated only by a final order of adoption.

(B) The relationship between a parent and child may be terminated with respect to one parent without affecting the relationship between the child and the other parent.

Section 20-7-1578. This subarticle must be liberally construed in order to ensure prompt judicial procedures for freeing minor children from the custody and control of their parents by terminating the parent-child relationship. The interests of the child shall prevail if the child's interest and the parental rights conflict.

Section 20-7-1580. All papers and records pertaining to a termination of parental rights are confidential and all court records must be sealed and opened only upon order of the judge for good cause shown.

Section 20-7-1582. The provisions of this subarticle do not, except as specifically provided, modify or supersede the general adoption laws of this State.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Section 20-7-1630. (A) When the Department of Social Services has custody of a child and places that child with a relative who is licensed to provide foster care, the agency must provide the same services and financial benefits as provided to other licensed foster homes. Children placed pursuant to this section are subject to the permanency planning requirements in Section 20-7-766.

(B) If the department has determined that it is in the best interest of a child requiring foster care that the child be placed with a relative, and the relative is not licensed to provide foster care, or if a relative advises the department that the relative is interested in providing placement for a child requiring foster care, the department shall inform the relative of the procedures for obtaining licensure and the benefits of licensure. The department also shall provide information and reasonable assistance to a relative seeking a foster care license to the same extent that it provides this information and assistance to other persons contacting the department about foster care licensing.

Section 20-7-1635. No agency may place minor in a foster home if the agency has actual knowledge that the minor has been adjudicated delinquent for, or has been convicted of a sex offense, unless the placement is in a therapeutic foster home or unless, the minor is the only child in the foster home at the time of placement and for the length of that minor's placement in the foster home. Notwithstanding this provision, the placing agency may petition the court for an order allowing the minor to be placed in a foster home, other than a therapeutic home, if good cause is shown. Good cause shall include, but not be limited to, the fact that the minor is being placed in a home with his siblings.

The placing agency must inform the foster parent in whose home the minor is placed of that minor's prior history of a sex offense. For purposes of this section the term 'sex offense' means:

- (1) criminal sexual conduct in the first degree, as provided in Section 16-3-652;
- (2) criminal sexual conduct in the second degree, as provided in Section 16-3-653;
- (3) criminal sexual conduct in the third degree, as provided in Section 16-3-654;
- (4) criminal sexual conduct with minors in the first degree, as provided in Section 16-3-655(1);
- (5) criminal sexual conduct with minors in the second degree, as provided in Section 16-3-655(2) and (3);
- (6) engaging a child for a sexual performance, as provided in Section 16-3-810;
- (7) producing, directing, or promoting sexual performance by a child, as provided in Section 16-3-820;
- (8) assault with intent to commit criminal sexual conduct, as provided in Section 16-3-656;
- (9) incest, as provided in Section 16-15-120;
- (10) buggery, as provided in Section 16-15-120;
- (11) committing or attempting lewd act upon child under sixteen, as provided in Section 16-15-140;
- (12) violations of Article 3, Chapter 15 of Title 16 involving a child when the violations are felonies;
- (13) accessory before the fact to commit an offense enumerated in this item and as provided for in Section 16-1-40;
- (14) attempt to commit any of the offenses enumerated herein; or
- (15) any offense for which the judge makes a specific finding on the record that based on the circumstances of the case, the minor's offense should be considered a sex offense.

Section 20-7-1640. (A) A person applying for licensure as a foster parent and a person eighteen years of age or older, residing in a home in which a person has applied to be licensed as a foster parent, must undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprinting review to be conducted by the Federal Bureau of Investigation to determine any other criminal history. The Department of Social Services may issue a temporary license to a person after the favorable completion of the State Law Enforcement Division fingerprint review if each person subject to the fingerprinting requirements affirms in writing on a form provided by the department that he or she has not been convicted of any crime provided for in Section 20-7-1642. The temporary license shall be valid until such time

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

as the Federal Bureau of Investigation results are received by the department, and a permanent license is issued or denied, unless the department terminates the temporary license earlier.

(B) Any fee charged by the Federal Bureau of Investigation for the fingerprint review must be paid by the individual.

Section 20-7-1642. (A) No child may be placed in foster care with a person:

- (1) with a substantiated history of child abuse or neglect; or
- (2) who has pled guilty or nolo contendere to or who has been convicted of:
 - (a) an 'Offense Against the Person' as provided for in Chapter 3, Title 16;
 - (b) an 'Offense Against Morality or Decency' as provided for in Chapter 15, Title 16;
 - (c) contributing to the delinquency of a minor as provided for in Section 16-17-490;
 - (d) the common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger;
 - (e) criminal domestic violence, as defined in Section 16-25-20;
 - (f) criminal domestic violence of a high and aggravated nature, as defined in Section 16-25-65; or
 - (g) a felony drug-related offense under the laws of this State.

(B) A person who has been convicted of a criminal offense similar in nature to a crime enumerated in subsection (A) when the crime was committed in another jurisdiction or under federal law is subject to the restrictions set out in this section.

Exceptions to whom may petition for adoption; providing hearings for violations

Section 20-7-1670. (A) Any South Carolina resident may petition the court to adopt a child. Placement of children for adoption pursuant to Subarticle 7, Article 11, Chapter 7 of Title 20 is limited to South Carolina residents with exceptions being made in the following circumstances only:

- (a) the child is a special needs child, as defined by Section 20-7-1650;
- (b) there has been public notoriety concerning the child or child's family, and the best interests of the child would be served by placement outside this State;
- (c) the child is to be placed for adoption with a relative related biologically or by marriage;
- (d) at least one of the adoptive parents is in the military service stationed in South Carolina.
- (e) there are unusual or exceptional circumstances such that the best interest of the child would be served by placement with or adoption by nonresidents of this State; or
- (f) the child has been in foster care for at least six months after having been legally freed for adoption and no South Carolina resident has been identified as a prospective adoptive home.

Before a child is placed within or outside the boundaries of this State for adoption with nonresidents of this State, compliance with Subarticle 11, Article 11, Chapter 7 of Title 20 (Interstate Compact on the Placement of Children) is required, and a judicial determination must be made in this State that one of the circumstances in items (a) through (f) of this section applies, whether or not the adoption proceedings are instituted in South Carolina. Additionally, in order to determine if any of the circumstances in items (a) through (f) of this section apply so as to permit placement with a nonresident for the purpose of adoption or adoption by a nonresident, a petition may be brought for the determination before the birth of the child or before placement of the child with the prospective adoptive parents. In ruling on this question the court must include in its order specific findings of fact as to the circumstances allowing the placement of a child with a nonresident or the adoption of a child by a nonresident. The court also must analyze the facts against the objective criteria established in Sections 16-3-1060 and 20-7-1690(F) and make specific findings in accordance with the pertinent law and evidence presented.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

The order resulting from this action does not prohibit or waive the right to refuse to consent to a release of rights or relinquish rights at a later time nor to withdraw a consent or relinquish at a later time as provided in this chapter. The order must be merged with and made a part of any subsequent adoption proceeding initiated in South Carolina.

(B) This section does not apply to a child placed by the State Department of Social Services or any agency under contract with the department for purposes of placing that child for adoption. Neither the department nor its contractors may delay or deny the placement of a child for adoption by a nonresident if that nonresident has been approved for adoption of the child by another state authorized to approve such placements pursuant to the Interstate Compact on Placement of Children. The department shall provide an opportunity for a hearing, in accordance with the department's fair hearing procedures, to a nonresident who believes that the department, in violation of this section, has delayed or denied placement of a child for adoption.

Kinship Foster Care Program.

Section 20-7-2275. (A) As used in this section, unless the context otherwise requires:

- (1) 'Department' means the Department of Social Services; and
- (2) 'Foster parent' means any person with whom a child in the care, custody, or guardianship of the department is placed for temporary or long-term care.

(B) There is established a 'Kinship Foster Care Program' in the State Department of Social Services.

(C) When a child has been removed from his home and is in the care, custody, or guardianship of the department, the department shall attempt to identify a relative who would be appropriate for placement of the child in accordance with the preliminary investigation requirements of Section 20-7-610 and in accordance with Section 20-7-764(B)(6). If the department determines that it is in the best interest of a child requiring out-of-home placement that the child be placed with a relative for foster care, or if a relative advises the department that the relative is interested in providing placement for a child requiring foster care, and the relative is not already licensed to provide foster care, the department shall inform the relative of the procedures for being licensed as a kinship foster parent, assist the foster parent with the licensing process, and inform the relative of availability of payments and other services to kinship foster parents. If the relative is licensed by the department to provide kinship foster care services, in accordance with rules and regulations adopted by the department regarding kinship foster care, and a placement with the relative is made, the relative may receive payment for the full foster care rate for the care of the child and any other benefits that might be available to foster parents, whether in money or in services.

(D) The department shall establish, in accordance with this section and the rules and regulations promulgated hereunder, eligibility standards for becoming a kinship foster parent.

(1) Relatives within the first, second, or third degree to the parent or stepparent of a child who may be related through blood, marriage, or adoption may be eligible for licensing as a kinship foster parent.

(2) The kinship foster parent must be twenty-one years of age or older, except that if the spouse or partner of the relative is twenty-one years of age or older and living in the home, and the relative is between eighteen and twenty-one years of age, the department may waive the age requirement.

(3)(a) A person may become a kinship foster parent only upon the completion of a full kinship foster care licensing study performed in accordance with rules and regulations promulgated pursuant to this section. Residents of the household who are age eighteen years of age or older must undergo the state and federal fingerprint review procedures as provided for in Section 20-7-1640. The department shall apply the screening criteria in Section 20-7-1642 to the results of the fingerprint reviews and the licensing study.

(b) The department shall maintain the confidentiality of the results of fingerprint reviews as provided for in state and federal regulations.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(4) The department shall determine, after a thorough review of information obtained in the kinship foster care licensing process, whether the person is able to care effectively for the foster child.

(E)(1) The department shall involve the kinship foster parents in development of the child's permanent plan pursuant to Section 20-7-766 and other plans for services to the child and the kinship foster home. The department shall give notice of proceedings and information to the kinship foster parent as provided for elsewhere in this article for other foster parents. If planning for the child includes the use of child daycare, the department shall pay for child care arrangements, according to established criteria for payment of these services for foster children. If the permanent plan for the child involves requesting the court to grant custody or guardianship of the child to the kinship foster parent, the department must ensure that it has informed the kinship foster parent about adoption, including services and financial benefits that might be available.

(2) The kinship foster parent shall cooperate with any activities specified in the case plan for the foster child, such as counseling, therapy or court sessions, or visits with the foster child's parents or other family members. Kinship foster parents and placements made in kinship foster care homes are subject to the requirements of Section 20-7-767.

Functions and Powers of Local Foster Care Review Boards

Section 20-7-2376. The functions and powers of local foster care review boards are:

(A) To review every six months but no less frequently than once every six months the cases of children who have resided in public foster care for a period of more than four consecutive months to determine what efforts have been made by the supervising agency or child caring facility to acquire a permanent home for the child. Following review of a case pursuant to this section, the local foster care review board shall submit a written report and recommendations to the court concerning the case. In order for the report and recommendations of the foster care review board to be easily identifiable and accessible by the judge, the report and recommendations must be visually distinct from other documents in the case file in their coloring or other prominent aspect. A child's return home for temporary placements, trial placements, visits, holidays, weekend visits, or changes from one foster care placement to another must not be construed to mean a break or lapse in determination of a consecutive four-month period for children in public foster care or six-month period for children in private foster care;

(B) To recommend continued placement of a child in the child caring facility, unless the parent is able to resume care, in at least those instances when:

(1) Children are privately placed in privately-owned facilities or group homes;

(2) A notarized affidavit of summary review is executed by the child caring facility and is valid on its face. The affidavit of summary review must be submitted to the board every six months and accepted by the board if it is valid on its face. The affidavit must attest to the following conditions:

(a) The person who placed the child has legal custody of the child;

(b) No court has ordered or approved the placement of the child in the care of the child caring facility except as a part of an order granting legal custody of the child to a parent or legal guardian;

(c) The facility has no knowledge that a child has ever been abused, neglected, or abandoned while under the care of the person who placed the child in the facility;

(d) The person who placed the child contributes regularly to the support of the child to the level of his ability and has done so for a period of six months immediately prior to the date of the affidavit;

(e) The person who placed the child has maintained contact and visitation with the child to the best of his ability under existing circumstances.

(C) To encourage the return of children to their natural parents, except as provided in item (B) of this section, or, upon determination during a case review of the local review board that this return is not in the best interest

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

of the child, to recommend to the appropriate agency action to be taken for a maximum effort to place the child for adoption;

(D) To promote and encourage all agencies and facilities involved in placing children in foster care to place children with persons suitable and eligible as adoptive parents;

(E) To advise foster parents of their right to petition the family court for termination of parental rights and for adoption and to encourage these foster parents to initiate these proceedings in an appropriate case when it has been determined by the local review board that return to the natural parent is not in the best interest of the child.

(F) To recommend that a child caring facility or agency exert all possible efforts to make arrangements for permanent foster care or guardianship for children for whom return to natural parents or adoption is not feasible or possible as determined during a case review by the local review board;

(G) To report to the state office of the Department of Social Services and other adoptive or foster care agencies any deficiencies in these agencies' efforts to secure permanent homes for children discovered in the local board's review of these cases as provided for in items (A) and (B) of this section.

Foster Care Review Board to participate in judicial reviews

Section 20-7-2377. The Foster Care Review Board may participate in judicial reviews pursuant to Sections 20-7-736, 20-7-766, and 20-7-1562 but shall file a motion to intervene if it intends to become a party to the action."

Foster Care Review Board; duties and procedures, including judicial review

Section 20-7-2379. (A) There is created, as part of the Office of the Governor, the Division for Review of the Foster Care of Children. The division must be supported by a board consisting of seven members, all of whom must be past or present members of local review boards. There must be one member from each congressional district and one member from the State at large, all appointed by the Governor with the advice and consent of the Senate.

(B) Terms of office for the members of the board are for four years and until their successors are appointed and qualify. Appointments must be made by the Governor for terms of four years to expire on June thirtieth of the appropriate year.

(C) The board shall elect from its members a chairman who shall serve for two years. Four members of the board constitute a quorum for the transaction of business. Members of the board shall receive per diem, mileage, and subsistence as provided by law for members of boards, commissions, and committees while engaged in the work of the board.

(D) The board shall meet at least quarterly and more frequently upon the call of the division director to review and coordinate the activities of the local review boards and make recommendations to the General Assembly with regard to foster care policies, procedures, and deficiencies of public and private agencies which arrange for foster care of children as determined by the review of cases provided for in Section 20-7-2376(A) and (B). These recommendations must be included in an annual report, filed with the General Assembly, of the activities of the state office and local review boards.

(E) The board, upon recommendation of the division director, shall promulgate regulations to carry out the provisions of this subarticle. These regulations shall provide for and must be limited to procedures for: reviewing reports and other necessary information at state, county, and private agencies and facilities; scheduling of reviews and notification of interested parties; conducting local review board and board of directors' meetings; disseminating local review board recommendations, including reporting to the appropriate family court judges the status of judicially approved treatment plans; participating and intervening in family court proceedings; and developing policies for summary review of children privately placed in privately-owned facilities or group homes.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(F) The Governor may employ a division director to serve at the Governor's pleasure who may be paid an annual salary to be determined by the Governor. The director may be removed pursuant to Section 1-3-240. The director shall employ staff as is necessary to carry out this subarticle, and the staff must be compensated in an amount and in a manner as may be determined by the Governor.

(G) This subarticle may not be construed to provide for subpoena authority."

Section 20-7-5655. (A) Records, reports, applications, and files kept on any client of the Continuum of Care are confidential and only may be disclosed in order to develop or provide appropriate services for the client or potential client unless:

- (1) the client or potential client or his guardian consents;
- (2) a court orders the disclosure for conduct of proceedings before it upon a showing that disclosure is in the public interest;
- (3) disclosure is necessary for research conducted or authorized by the Continuum of Care; or
- (4) disclosure is necessary to any entity or state agency providing or potentially providing services to the client or potential client.

(B) Nothing in this section:

(1) precludes disclosure upon proper inquiry, of information as to a client's or potential client's current condition to members of his family; or

(2) requires the release of records of which disclosure is prohibited or regulated by federal law.

(C) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both.

Severability clause

(A) If a provision of this act or the application of a provision of this act to a person or circumstance is held invalid, or if a provision of this act is found to be in conflict with federal statutes or regulations, that invalidity or conflict does not affect the other provisions of this act and to this end the provisions are severable.

(B) It is the intent of this section that no federal funding may be jeopardized by any provision of this act. If a provision should be determined to place this funding at risk, that provision must be:

- (1) construed and applied in such a way as to conform to federal requirements; or
- (2) is invalid and provisions of law in effect before the passage of this act apply.

Out-of-court statements

Section 19-1-180. (A) An out-of-court statement made by a child who is under twelve years of age or who functions cognitively, adaptively, or developmentally under the age of twelve at the time of a family court proceeding brought pursuant to Title 20 concerning an act of alleged abuse or neglect as defined by Section 20-7-490 is admissible in the family court proceeding if the requirements of this section are met regardless of whether the statement would be otherwise inadmissible.

(B) An out-of-court statement may be admitted as provided in subsection (A) if:

- (1) the child testifies at the proceeding or testifies by means of videotaped deposition or closed-circuit television, and at the time of the testimony the child is subject to cross-examination about the statement; or
- (2)(a) the child is found by the court to be unavailable to testify on any of these grounds:
 - (i) the child's death;
 - (ii) the child's physical or mental disability;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- (iii) the existence of a privilege involving the child;
- (iv) the child's incompetency, including the child's inability to communicate about the offense because of fear;
- (v) substantial likelihood that the child would suffer severe emotional trauma from testifying at the proceeding or by means of videotaped deposition or closed-circuit television; and
- (b) the child's out-of-court statement is shown to possess particularized guarantees of trustworthiness.
- (C) The proponent of the statement shall inform the adverse party of the proponent's intention to offer the statement and the content of the statement sufficiently in advance of the proceeding to provide the defendant with a fair opportunity to prepare a response to the statement before the proceeding at which it is offered.
- (D) In determining whether a statement possesses particularized guarantees of trustworthiness under subsection (B)(2)(b), the court may consider, but is not limited to, the following factors:
 - (1) the child's personal knowledge of the event;
 - (2) the age and maturity of the child;
 - (3) certainty that the statement was made, including the credibility of the person testifying about the statement;
 - (4) any apparent motive the child may have to falsify or distort the event, including bias, corruption, or coercion;
 - (5) whether more than one person heard the statement;
 - (6) whether the child was suffering pain or distress when making the statement;
 - (7) the nature and duration of any alleged abuse;
 - (8) whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's knowledge and experience;
 - (9) whether the statement has a ring of verity, has internal consistency or coherence, and uses terminology appropriate to the child's age;
 - (10) whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement.
- (E) The court shall support with findings on the record any rulings pertaining to the child's unavailability and the trustworthiness of the out-of-court statement.
- (F) Any hearsay testimony admissible under this section shall not be admissible in any other proceeding.
- (G) If the parents of the child are separated or divorced, the hearsay statement shall be inadmissible if (1) one of the parents is the alleged perpetrator of the alleged abuse

or neglect and (2) the allegation was made after the parties separated or divorced. Notwithstanding this subsection, a statement alleging abuse or neglect made by a child to a law enforcement official, an officer of the court, a licensed family counselor or therapist, a physician or other health care provider, a teacher, a school counselor, a Department of Social Services staff member, or to a child care worker in a regulated child care facility is admissible under this section.

Section 59-63-20. Age of Attendance.

It is not unlawful for any person who is less than five or more than twenty-one years of age to attend any of the public schools of this State, including kindergarten, except that:

- (1) Persons over twenty-one years of age may attend night schools;
- (2) When a pupil is in the graduating class and becomes twenty-one years of age before graduation, he is permitted to complete the term if otherwise qualified to do so;
- (3) Students may enter kindergarten in the public schools of this State if they will attain the age of five on or before September first of the applicable school year or have substantially initiated a public school kindergarten program in another state that has a different attendance age requirement from South Carolina;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(4) Students may not enter the first grade in the public schools of this State unless they will attain the age of six on or before September first of the applicable school year or have substantially initiated a first grade program in another state that has a different attendance age requirement from South Carolina or have attended a public school kindergarten program for one full school year;

(5) The restrictions in this section may be waived by the local board of school trustees in any proper case. However, that if the provisions of items (3) and (4) of this section are not complied with, the school district is not entitled to receive any state aid for any students who fail to meet these requirements;

(6) Four-year-olds may attend optional child development programs and all three-year-old, four-year-old, and five-year-old children with disabilities in accordance with their individual education program, may participate in any public education preschool program, including optional child development programs. Children with disabilities served in four-year-old optional child development programs may be counted for funding under both funding sources.

Section 59-63-30. Qualifications for attendance.

Children within the ages prescribed by Section 59-63-20 shall be entitled to attend the public schools of any school district, without charge, only if qualified under the following provisions of this section:

- (a) Such child resides with its parent or legal guardian;
- (b) The parent or legal guardian, with whom the child resides, is a resident of such school district; or
- (c) The child owns real estate in the district having an assessed value of three hundred dollars or more; and
- (d) The child has maintained a satisfactory scholastic record in accordance with scholastic standards of achievement prescribed by the trustees pursuant to Section 59-19-90; and
- (e) The child has not been guilty of infraction of the rules of conduct promulgated by the trustees of such school district pursuant to Section 59-19-90.

Section 59-63-31. Additional qualifications for attendance at public school.

Children within the ages prescribed in Section 59-63-20 also are entitled to attend the public schools of a school district, without charge, if:

- (1) the child resides with one of the following who is a resident of the school district:
 - (a) a person who is not the child's parent or legal guardian to whom the child's custody has been awarded by a court of competent jurisdiction;
 - (b) a foster parent or in a residential community-based care facility licensed by the Department of Social Services or operated by the Department of Social Services or the Department of Juvenile Justice; or
 - (c) the child resides with an adult resident of the school district as a result of:
 - (i) the death, serious illness, or incarceration of a parent or legal guardian;
 - (ii) the relinquishment by a parent or legal guardian of the complete control of the child as evidenced by the failure to provide substantial financial support and parental guidance;
 - (iii) abuse or neglect by a parent or legal guardian;
 - (iv) the physical or mental condition of a parent or legal guardian is such that he or she cannot provide adequate care and supervision of the child; or
 - (v) a parent's or legal guardian's homelessness, as that term is defined by Public Law 100-77;
 - (2) the child is emancipated and resides in the school district; or
 - (3) the child is homeless or is a child of a homeless individual, as defined in Public Law 100-77, as amended.
- In addition to the above requirements of this subsection, the child shall also satisfy the requirements of Section 59-63-30(d) and (e).

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(B) A child between five and twenty-one years of age is entitled to continue attending a particular public school or a successor school in the same school district without charge if:

(1) the child has been attending the school or a predecessor school in the same district prior to being taken into custody by the Department of Social Services or prior to being moved from one placement to another by the department;

(2) the Department of Social Services places the child outside the school district or school attendance zone in a foster home or residential community-based facility licensed or operated by the department; and

(3) the Department of Social Services has determined that it is in the child's best interests for the child to continue attending the school, and that transportation for the child to and from the school is reasonably available.

In addition to the requirements of this subsection, the child also shall satisfy the requirements of Section 59-63-30(d) and (e).

751 Criminal Sexual Conduct

Revision Number: 08-02, Effective Date: 07/31/2008

Section 16-3-651. Criminal sexual conduct definitions.

For the purposes of Sections 16-3-651 to 16-3-659.1:

(a) "Actor" means a person accused of criminal sexual conduct;

(b) "Aggravated coercion" means that the actor threatens to use force or violence of a high and aggravated nature to overcome the victim or another person, if the victim reasonably believes that the actor has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping or extortion, under circumstances of aggravation, against the victim or any other person.

(c) "Aggravated force" means that the actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or includes the threat of use of a deadly weapon.

(d) "Intimate parts" includes the primary genital area, anus, groin, inner thighs, or buttocks of a male or female human being and the breast of a female human being.

(e) "Mentally defective" means that a person suffers from a mental disease or defect which renders the person temporarily or permanently incapable of appraising the nature of his or her conduct.

(f) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct whether this condition is produced by illness, defect, the influence of a substance or from some other cause.

(g) "Physically helpless" means that person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to act.

(h) "Sexual battery" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes.

(i) "Victim" means the person alleging to have been subjected to criminal sexual conduct.

Section 16-3-655. Criminal sexual conduct with a minor.

(1) A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim who is less than eleven years of age.

(2) A person is guilty of criminal sexual conduct in the second degree if the actor engages in sexual battery with a victim who is fourteen years of age or less but who is at least eleven years of age.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(3) A person is guilty of criminal sexual conduct in the second degree if the actor engages in sexual battery with a victim who is at least fourteen years of age but who is less than sixteen years of age and the actor is in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim.

Section 16-3-800. Definitions.

As used in this article.

(1) "Sexual performance" means any performance or part thereof that includes sexual conduct by a child younger than eighteen years of age.

(2) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals.

(3) "Performance" means any play, motion picture, photograph, dance, or other visual representation that is exhibited before an audience.

(4) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.

Section 16-3-810. Engaging child for sexual performance; penalty.

(a) It is unlawful for any person to employ, authorize, or induce a child younger than eighteen years of age to engage in a sexual performance. It is unlawful for a parent or legal guardian or custodian of a child younger than eighteen years of age to consent to the participation by the child in a sexual performance.

(b) Any person violating the provisions of subsection (a) of this section is guilty of criminal sexual conduct of the second degree and upon conviction shall be punished as provided in Section 16-3-653.

Section 16-3-820. Producing, directing or promoting sexual performance by child; penalty.

(a) It is unlawful for any person to produce, direct, or promote a performance that includes sexual conduct by a child younger than eighteen years of age.

(b) any person violating the provisions of subsection (a) of this section is guilty of criminal sexual conduct of the third degree and upon conviction shall be punished as provided in Section 16-3-654.

Section 16-3-830. Reasonable belief as to majority of child as affirmative defense.

It is an affirmative defense to a prosecution under this article that the defendant, in good faith, reasonably believed that the person who engaged in sexual conduct was eighteen years of age or older.

Section 16-3-840. Methods of judicial determination of age of child.

When it becomes necessary for the purposes of this article to determine whether a child who participated in sexual conduct was younger than eighteen years of age, the court or jury may make this determination by any of the following:

(1) personal inspection of the child;

(2) inspection of the photograph or motion picture that shows the child engaging in the sexual performance;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- (3) oral testimony by a witness to the sexual performance as to the age of the child based on the child's appearance at the time;
- (4) expert medical testimony based on the appearance of the child engaging in the sexual performance;
- or
- (5) any other method authorized by law or by rules of evidence.

Section 16-3-850. Film processor or computer technician to report film or computer images containing sexually explicit pictures of minors.

Any retail or wholesale film processor or photo finisher who is requested to develop film, and any computer technician working with a computer who views an image of a child younger than eighteen years of age who is engaging in sexual conduct, sexual performance, or a sexually explicit posture must report the name and address of the individual requesting the development of the film, or of the owner or person in possession of the computer to law enforcement officials in the state and county or municipality from which the film was originally forwarded. Compliance with this section does not give rise to any civil liability on the part of anyone making the report.

Section 16-15-20. Incest.

Any person who shall have carnal intercourse with each other within the following degrees of relationship, to wit:

(1) a man with his mother, grandmother, daughter, granddaughter, stepmother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister or mother's sister; or

(2) a woman with her father, grandfather, son, grandson, stepfather, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother or mother's brother;

Shall be guilty of incest and shall be punished by a fine of not less than five hundred dollars or imprisonment not less than one year in the Penitentiary, or both such fine and imprisonment.

Section 16-15-140. Committing or attempting lewd act upon child under sixteen.

It is unlawful for a person over the age of fourteen years to willfully and lewdly commit or attempt a lewd or lascivious act upon or with the body, or its parts, of a child under the age of sixteen years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of the person or of the child.

A person violating the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned no more than fifteen years, or both.

Section 16-15-335. Permitting minor to engage in any act constituting violation of this article prohibited; penalties.

Any individual eighteen years of age or older who knowingly, in any manner, hires, employs, uses, or permits any person under the age of eighteen years to do or assist in doing any act or thing constituting an offense under this article and involving any material, act, or thing he knows or reasonably should know to be obscene within the meaning of 16-15-305 is guilty of a felony and, upon conviction, must be imprisoned for not more than five years.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Section 16-15-345. Disseminating obscene material to person under age eighteen prohibited; penalties.

An individual eighteen years of age or older who knowingly disseminates to a person under the age of eighteen years material which he knows or reasonably should know to be obscene within the meaning of Section 16-15-305 is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

Section 16-15-355. Disseminating obscene material to minor twelve years of age or younger prohibited; penalties.

Any individual eighteen years of age or older who knowingly disseminates to any minor twelve years of age or younger any material which he knows or reasonably should know to be obscene within the meaning of 16-15-305 is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

Section 16-15-375. Definitions applicable to §§ 16-15-385 through 16-15-425.

The following definitions apply to Section 16-15-385, disseminating or exhibiting to minors harmful material or performances; Section 16-15-387, employing a person under the age of eighteen years to appear in a state of sexually explicit nudity in a public place; Section 16-15-395, first degree sexual exploitation of a minor; Section 16-15-405, second degree sexual exploitation of a minor; Section 16-15-410, third degree sexual exploitation of a minor; Section 16-15-415, promoting prostitution of a minor; and Section 16-15-425, participating in prostitution of a minor.

(1) "Harmful to minors" means that quality of any material or performance that depicts sexually explicit nudity or sexual activity and that, taken as a whole, has the following characteristics:

(a) the average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest of minors in sex; and

(b) the average adult person applying contemporary community standards would find that the depiction of sexually explicit nudity or sexual activity in the material or performance is patently offensive to prevailing standards in the adult community concerning what is suitable for minors; and

(c) to a reasonable person, the material or performance taken as a whole lacks serious literary, artistic, political, or scientific value for minors.

(2) "Material" means pictures, drawings, video recordings, films, digital electronic files, or other visual depictions or representations but not material consisting entirely of written words.

(3) "Minor" means an individual who is less than eighteen years old.

(4) "Prostitution" means engaging or offering to engage in sexual activity with or for another in exchange for anything of value.

(5) "Sexual activity" includes any of the following acts or simulations thereof:

(a) masturbation, whether done alone or with another human or animal;

(b) vaginal, anal, or oral intercourse, whether done with another human or an animal;

(c) touching, in an act of apparent sexual stimulation or sexual abuse, of the clothed or unclothed genitals, pubic area, or buttocks of another person or the clothed or unclothed breasts of a human female;

(d) an act or condition that depicts bestiality, sado-masochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained on the part of the one so clothed;

(e) excretory functions;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(f) the insertion of any part of a person's body, other than the male sexual organ, or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure.

(6) "Sexually explicit nudity" means the showing of:

(a) uncovered, or less than opaquely covered human genitals, pubic area, or buttocks, or the nipple or any portion of the areola of the human female breast; or

(b) covered human male genitals in a discernibly turgid state.

Section 16-15-385. Disseminating harmful material to minors and exhibiting harmful performance to minor defined; defenses; penalties.

(A) A person commits the offense of disseminating harmful material to minors if, knowing the character or content of the material, he:

(1) sells, furnishes, presents, or distributes to a minor material that is harmful to minors; or

(2) allows a minor to review or peruse material that is harmful to minors.

A person does not commit an offense under this subsection when he employs a minor to work in a theater if the minor's parent or guardian consents to the employment and if the minor is not allowed in the viewing area when material harmful to minors is shown.

(B) A person commits the offense of exhibiting a harmful performance to a minor if, with or without consideration and knowing the character or content of the performance, he allows a minor to view a live performance which is harmful to minors.

(C) Except as provided in item (3) of this subsection, mistake of age is not a defense to a prosecution under this section. It is an affirmative defense under this section that:

(1) the defendant was a parent or legal guardian of a minor, but this item does not apply when the parent or legal guardian exhibits or disseminates the harmful material for the sexual gratification of the parent, guardian, or minor.

(2) the defendant was a school, church, museum, public, school, college, or university library, government agency, medical clinic, or hospital carrying out its legitimate function, or an employee or agent of such an organization acting in that capacity and carrying out a legitimate duty of his employment.

(3) before disseminating or exhibiting the harmful material or performance, the defendant requested and received a driver's license, student identification card, or other official governmental or educational identification card or paper indicating that the minor to whom the material or performance was disseminated or exhibited was at least eighteen years old, and the defendant reasonably believed the minor was at least eighteen years old.

(D) A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than five thousand dollars, or both.

Section 16-15-387. Unlawful to employ person under eighteen to appear in public place in state of sexually explicit nudity; mistake as to age; violation, penalty.

It is unlawful for any person to employ a person under the age of eighteen years to appear in a state of sexually explicit nudity, as defined in Section 16-15-375(6), in a public place.

Mistake of age is not a defense to a prosecution under this section. A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than five thousand dollars, or both.

Section 16-15-395. First degree sexual exploitation of a minor defined; presumptions; defenses; penalties.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(A) An individual commits the offense of first degree sexual exploitation of a minor if, knowing the character or content of the material or performance, he:

(1) uses, employs, induces, coerces, encourages, or facilitates a minor to engage in or assist others to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity;

(2) permits a minor under his custody or control to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity;

(3) transports or finances the transportation of a minor through or across this State with the intent that the minor engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or

(4) records, photographs, films, develops, duplicates, produces, or creates a digital electronic file for sale or pecuniary gain material that contains a visual representation depicting a minor engaged in sexual activity.

(B) In a prosecution under this section, the trier of fact may infer that a participant in a sexual activity depicted in material as a minor through its title, text, visual representations, or otherwise, is a minor.

(C) Mistake of age is not a defense to a prosecution under this section.

(D) A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned for not less than three years nor more than ten years. No part of the minimum sentence of imprisonment may be suspended nor is the individual convicted eligible for parole until he has served the minimum term of imprisonment. Sentences imposed pursuant to this section shall run consecutively with and commence at the expiration of any other sentence being served by the person sentenced.

Section 16-15-405. Second degree sexual exploitation of a minor defined; presumptions; defenses; penalties.

(A) An individual commits the offense of second degree sexual exploitation of a minor if, knowing the character or content of the material, he:

(1) records, photographs, films, develops, duplicates, produces, or creates digital electronic file material that contains a visual representation of a minor engaged in sexual activity; or

(2) distributes, transports, exhibits, receives, sells, purchases, exchanges, or solicits material that contains a visual representation of a minor engaged in sexual activity.

(B) In a prosecution under this section, the trier of fact may infer that a participant in sexual activity depicted in material as a minor through its title, text, visual representations, or otherwise, is a minor.

(C) Mistake of age is not a defense to a prosecution under this section.

(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than five years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum sentence.

Section 16-15-415. Promoting prostitution of a minor defined; defenses; Penalties.

(A) An individual commits the offense of promoting prostitution of a minor if he knowingly:

(1) entices, forces, encourages, or otherwise facilitates a minor to participate in prostitution; or

(2) supervises, supports, advises, or promotes the prostitution of or by a minor.

(B) Mistake of age is not a defense to a prosecution under this section.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(C) An individual who violates this section is guilty of a felony and, upon conviction, must be imprisoned for not less than three years nor more than ten years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum sentence. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentence being served by the individual sentenced.

Section 16-15-425. Participating in prostitution of a minor defined; defenses; penalties.

(A) An individual commits the offense of participating in the prostitution of a minor if he is not a minor and he patronizes a minor prostitute. As used in this section, "patronizing a minor prostitute" means:

- (1) soliciting or requesting a minor to participate in prostitution;
- (2) paying or agreeing to pay a minor, either directly or through the minor's agent, to participate in prostitution; or
- (3) paying a minor, or the minor's agent, for having participated in prostitution, pursuant to a prior agreement.

(B) Mistake of age is not a defense to a prosecution under this section.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than five years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum term. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentence being served by the individual sentenced.

Section 19-11-90, Priest-penitent privilege.

In any legal or quasi-legal trial, hearing or proceeding before any court, commission or committee no regular or duly ordained minister, priest or rabbi shall be required, in giving testimony, to disclose any confidential communication properly entrusted to him in his professional capacity and necessary and proper to enable him to discharge the functions of his office according to the usual course of practice or discipline of his church or religious body. This prohibition shall not apply to cases where the party in whose favor it is made waives the rights conferred.

752 Law Enforcement; Domestic Violence; Arrest With or Without Warrant

Revision Number: 03-01, Effective Date: 09/04/2003

Section 16-25-70. (A) A law enforcement officer may arrest, with or without a warrant, a person at the person's place of residence or elsewhere if the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony under the provisions of Section 16-25-20, 16-25-50, or 16-25-65 even if the act did not take place in the presence of the officer. The officer may, if necessary, verify the existence of an order of protection by telephone or radio communication with the appropriate police department.

(B) A law enforcement officer must arrest, with or without a warrant, a person at the person's place of residence or elsewhere if physical manifestations of injury to the alleged victim are present and the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony under the provisions of Section 16-25-20, 16-25-50, or 16-25-65 even if the act did not take place in the presence of the officer. The officer may, if necessary, verify the existence of an order of protection by telephone or radio communication with the appropriate police department.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(C) In effecting a warrantless arrest under this section, a law enforcement officer may enter the residence of the person to be arrested in order to effect the arrest where the officer has probable cause to believe that the action is necessary to prevent physical harm or danger to a family or household member.

(D) If a law enforcement officer receives conflicting complaints of domestic or family violence from two or more household members involving an incident of domestic or family violence, the officer shall evaluate each complaint separately to determine who was the primary aggressor. If the officer determines that one person was the primary physical aggressor, the officer must not arrest the other person accused of having committed domestic or family violence. In determining whether a person is the primary aggressor, the officer shall consider:

- (1) prior complaints of domestic or family violence;
- (2) the relative severity of the injuries inflicted on each person taking into account injuries alleged which may not be easily visible at the time of the investigation;
- (3) the likelihood of future injury to each person;
- (4) whether one of the persons acted in self-defense;
- (5) household member accounts regarding the history of domestic violence.

(E) A law enforcement officer must not threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage requests for intervention by law enforcement by a party.

(F) A law enforcement officer who arrests two or more persons for a crime involving domestic or family violence must include the grounds for arresting both parties in the written incident report and must include a statement in the report that the officer attempted to determine which party was the primary aggressor pursuant to this section and was unable to make a determination based upon the evidence available at the time of the arrest.

(G) When two or more household members are charged with a crime involving domestic or family violence arising from the same incident and the court finds that one party was the primary aggressor pursuant to this section, the court, if appropriate, may dismiss charges against the other party or parties.

(H) No evidence other than evidence of violations of this article found as a result of a warrantless search is admissible in a court of law.

(I) In addition to the protections granted to the law enforcement officer and law enforcement agency under the South Carolina Tort Claims Act, a law enforcement officer is not liable for an act, omission, or exercise of discretion under this section unless the act, omission, or exercise of discretion constitutes gross negligence, recklessness, willfulness, or wantonness.

752.01 Entry of Criminal Court Data on the Child Abuse and Neglect Central Registry

Revision Number: 03-01, Effective Date: 09/04/2003

Section 17-25-135.

(A) When a person is convicted of or pleads guilty or nolo contendere to an 'Offense Against the Person' as provided for in Title 16, Chapter 3, an 'Offense Against Morality or Decency' as provided for in Title 16, Chapter 15, criminal domestic violence, as defined in Section 16-25-20, criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65, or the common law offense of assault and battery of a high and aggravated nature, and the act on which the conviction or the plea of guilty or nolo contendere is based involved sexual or physical abuse of a child, the court shall order that the person's name, any other identifying information, including, but not limited to, the person's date of birth, address, and any other identifying characteristics, and the nature of the act which led to the conviction or plea be placed in the Central Registry of Child Abuse and Neglect established by Section 20-7-680. The clerk shall forward the information to the Department of Social Services for this purpose in accordance with guidelines adopted by the department.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(B) for purposes of this section:

(1) 'Physical abuse' means inflicting physical injury upon a child or encouraging or facilitating the infliction of physical injury upon a child by any person including, but not limited to, a person responsible for the child's welfare, as defined in Section 20-7-490(5).

(2) 'Sexual abuse' means:

(a) actual or attempted sexual contact with a child; or

(b) permitting, enticing, encouraging, forcing, or otherwise facilitating a child's participation in prostitution or in a live performance or photographic representation of sexual activity or sexually explicit nudity; by any person including, but not limited to, a person responsible for the child's welfare, as defined in Section 20-7-490(5).

754 Indian Child Welfare Act

Revision Number: 07-06, Effective Date: 01/30/2007

Indian Child Welfare Act

§ 1901. Congressional findings

Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds--

(1) that clause 3, section 8, article I of the United States Constitution provides that "The Congress shall have Power * * * To regulate Commerce * * * with Indian tribes [\[FN1\]](#)" and, through this and other constitutional authority, Congress has plenary power over Indian affairs;

(2) that Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;

(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;

(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

§ 1902. Congressional declaration of policy

The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

§ 1903. Definitions

For the purposes of this chapter, except as may be specifically provided otherwise, the term--

(1) "child custody proceeding" shall mean and include--

(i) "foster care placement" which shall mean any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(ii) "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;

(iii) "preadoptive placement" which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

(iv) "adoptive placement" which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents.

(2) "extended family member" shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;

(3) "Indian" means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation as defined in [section 1606 of Title 43](#);

(4) "Indian child" means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;

(5) "Indian child's tribe" means (a) the Indian tribe in which an Indian child is a member or eligible for membership or (b), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts;

(6) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;

(7) "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(8) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in [section 1602\(c\) of Title 43](#);

(9) "parent" means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established;

(10) "reservation" means Indian country as defined in [section 1151 of Title 18](#) and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation;

(11) "Secretary" means the Secretary of the Interior; and

(12) "tribal court" means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

§ 1911. Indian tribe jurisdiction over Indian child custody proceedings

(a) Exclusive jurisdiction

An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(b) Transfer of proceedings; declination by tribal court

In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: *Provided*, That such transfer shall be subject to declination by the tribal court of such tribe.

(c) State court proceedings; intervention

In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.

(d) Full faith and credit to public acts, records, and judicial proceedings of Indian tribes

The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

§ 1912. Pending court proceedings

(a) Notice; time for commencement of proceedings; additional time for preparation

In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: *Provided*, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(b) Appointment of counsel

In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to [section 13](#) of this title.

(c) Examination of reports or other documents

Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

(d) Remedial services and rehabilitative programs; preventive measures

Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(e) Foster care placement orders; evidence; determination of damage to child

No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(f) Parental rights termination orders; evidence; determination of damage to child

No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

§ 1913. Parental rights; voluntary termination

(a) Consent; record; certification matters; invalid consents

Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(b) Foster care placement; withdrawal of consent

Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

(c) Voluntary termination of parental rights or adoptive placement; withdrawal of consent; return of custody

In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

(d) Collateral attack; vacation of decree and return of custody; limitations

After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law.

§ 1914. Petition to court of competent jurisdiction to invalidate action upon showing of certain violations

Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of [sections 1911](#), [1912](#), and [1913](#) of this title.

§ 1915. Placement of Indian children

(a) Adoptive placements; preferences

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families.

(b) Foster care or preadoptive placements; criteria; preferences

Any child accepted for foster care or preadoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any foster care or preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with-

- (i) a member of the Indian child's extended family;
 - (ii) a foster home licensed, approved, or specified by the Indian child's tribe;
 - (iii) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
 - (iv) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.
- (c) Tribal resolution for different order of preference; personal preference considered; anonymity in application of preferences

In the case of a placement under subsection (a) or (b) of this section, if the Indian child's tribe shall establish a different order of preference by resolution, the agency or court effecting the placement shall follow such order so long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in subsection (b) of this section. Where appropriate, the preference of the Indian child or parent shall be considered: *Provided*, That where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

(d) Social and cultural standards applicable

The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

(e) Record of placement; availability

A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

§ 1916. Return of custody

(a) Petition; best interests of child

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of [section 1912](#) of this title, that such return of custody is not in the best interests of the child.

(b) Removal from foster care home; placement procedure

Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, such placement shall be in accordance with the provisions of this chapter, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

§ 1917. Tribal affiliation information and other information for protection of rights from tribal relationship; application of subject of adoptive placement; disclosure by court

Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

§ 1918. Reassumption of jurisdiction over child custody proceedings

(a) Petition; suitable plan; approval by Secretary

Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by Title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

(b) Criteria applicable to consideration by Secretary; partial retrocession

(1) In considering the petition and feasibility of the plan of a tribe under subsection (a) of this section, the Secretary may consider, among other things:

- (i)** whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;
- (ii)** the size of the reservation or former reservation area which will be affected by retrocession and reassumption of jurisdiction by the tribe;
- (iii)** the population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and
- (iv)** the feasibility of the plan in cases of multiracial occupation of a single reservation or geographic area.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(2) In those cases where the Secretary determines that the jurisdictional provisions of [section 1911\(a\)](#) of this title are not feasible, he is authorized to accept partial retrocession which will enable tribes to exercise referral jurisdiction as provided in [section 1911\(b\)](#) of this title, or, where appropriate, will allow them to exercise exclusive jurisdiction as provided in [section 1911\(a\)](#) of this title over limited community or geographic areas without regard for the reservation status of the area affected.

(c) Approval of petition; publication in Federal Register; notice; reassumption period; correction of causes for disapproval

If the Secretary approves any petition under subsection (a) of this section, the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected State or States of such approval. The Indian tribe concerned shall reassume jurisdiction sixty days after publication in the Federal Register of notice of approval. If the Secretary disapproves any petition under subsection (a) of this section, the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval.

(d) Pending actions or proceedings unaffected

Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under [section 1919](#) of this title.

§ 1919. Agreements between States and Indian tribes

(a) Subject coverage

States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes.

(b) Revocation; notice; actions or proceedings unaffected

Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

§ 1920. Improper removal of child from custody; declination of jurisdiction; forthwith return of child: danger exception

Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

§ 1921. Higher State or Federal standard applicable to protect rights of parent or Indian custodian of Indian child

In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this subchapter, the State or Federal court shall apply the State or Federal standard.

§ 1922. Emergency removal or placement of child; termination; appropriate action

Nothing in this subchapter shall be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this subchapter, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian, as may be appropriate.

§ 1923. Effective date

None of the provisions of this subchapter, except [sections 1911\(a\)](#), [1918](#), and [1919](#) of this title, shall affect a proceeding under State law for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement which was initiated or completed prior to one hundred and eighty days after November 8, 1978, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings affecting the custody or placement of the same child.

§ 1931. Grants for on or near reservation programs and child welfare codes

(a) Statement of purpose; scope of programs

The Secretary is authorized to make grants to Indian tribes and organizations in the establishment and operation of Indian child and family service programs on or near reservations and in the preparation and implementation of child welfare codes. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort. Such child and family service programs may include, but are not limited to--

- (1) a system for licensing or otherwise regulating Indian foster and adoptive homes;
- (2) the operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children;
- (3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care;
- (4) home improvement programs;

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- (5) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;
 - (6) education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs;
 - (7) a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate State standards of support for maintenance and medical needs; and
 - (8) guidance, legal representation, and advice to Indian families involved in tribal, State, or Federal child custody proceedings.
- (b) Non-Federal matching funds for related Social Security or other Federal financial assistance programs; assistance for such programs unaffected; State licensing or approval for qualification for assistance under federally assisted program

Funds appropriated for use by the Secretary in accordance with this section may be utilized as non-Federal matching share in connection with funds provided under Titles IV-B and XX of the Social Security Act [\[42 U.S.C.A. § § 620 et seq., 1397 et seq.\]](#) or under any other Federal financial assistance programs which contribute to the purpose for which such funds are authorized to be appropriated for use under this chapter. The provision or possibility of assistance under this chapter shall not be a basis for the denial or reduction of any assistance otherwise authorized under Titles IV-B and XX of the Social Security Act or any other federally assisted program. For purposes of qualifying for assistance under a federally assisted program, licensing or approval of foster or adoptive homes or institutions by an Indian tribe shall be deemed equivalent to licensing or approval by a State.

§ 1932. Grants for off-reservation programs for additional services

The Secretary is also authorized to make grants to Indian organizations to establish and operate off-reservation Indian child and family service programs which may include, but are not limited to--

- (1) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as Indian foster children, taking into account the appropriate State standards of support for maintenance and medical needs;
- (2) the operation and maintenance of facilities and services for counseling and treatment of Indian families and Indian foster and adoptive children;
- (3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care; and
- (4) guidance, legal representation, and advice to Indian families involved in child custody proceedings.

§ 1933. Funds for on and off reservation programs

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

(a) Appropriated funds for similar programs of Department of Health and Human Services; appropriation in advance for payments

In the establishment, operation, and funding of Indian child and family service programs, both on and off reservation, the Secretary may enter into agreements with the Secretary of Health and Human Services, and the latter Secretary is hereby authorized for such purposes to use funds appropriated for similar programs of the Department of Health and Human Services: *Provided*, That authority to make payments pursuant to such agreements shall be effective only to the extent and in such amounts as may be provided in advance by appropriation Acts.

(b) Appropriation authorization under [section 13](#) of this title

Funds for the purposes of this chapter may be appropriated pursuant to the provisions of [section 13](#) of this title.

§ 1934. "Indian" defined for certain purposes

For the purposes of [sections 1932](#) and [1933](#) of this title, the term "Indian" shall include persons defined in [section 1603\(c\)](#) of this title.

§ 1951. Information availability to and disclosure by Secretary

(a) Copy of final decree or order; other information; anonymity affidavit; exemption from Freedom of Information Act

Any State court entering a final decree or order in any Indian child adoptive placement after November 8, 1978, shall provide the Secretary with a copy of such decree or order together with such other information as may be necessary to show--

- (1) the name and tribal affiliation of the child;
- (2) the names and addresses of the biological parents;
- (3) the names and addresses of the adoptive parents; and
- (4) the identity of any agency having files or information relating to such adoptive placement.

Where the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information. The Secretary shall insure that the confidentiality of such information is maintained and such information shall not be subject to the Freedom of Information Act ([5 U.S.C. 552](#)), as amended.

(b) Disclosure of information for enrollment of Indian child in tribe or for determination of member rights or benefits; certification of entitlement to enrollment

Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian tribe, the Secretary shall disclose such information as may be necessary for the enrollment of

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

an Indian child in the tribe in which the child may be eligible for enrollment or for determining any rights or benefits associated with that membership. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting anonymity, the Secretary shall certify to the Indian child's tribe, where the information warrants, that the child's parentage and other circumstances of birth entitle the child to enrollment under the criteria established by such tribe.

§ 1952. Rules and regulations

Within one hundred and eighty days after November 8, 1978, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter.

§ 1961. Locally convenient day schools

(a) Sense of Congress

It is the sense of Congress that the absence of locally convenient day schools may contribute to the breakup of Indian families.

(b) Report to Congress; contents, etc.

The Secretary is authorized and directed to prepare, in consultation with appropriate agencies in the Department of Health and Human Services, a report on the feasibility of providing Indian children with schools located near their homes, and to submit such report to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within two years from November 8, 1978. In developing this report the Secretary shall give particular consideration to the provision of educational facilities for children in the elementary grades.

§ 1962. Omitted.

§ 1963. Severability

If any provision of this chapter or the applicability thereof is held invalid, the remaining provisions of this chapter shall not be affected thereby.

South Carolina Drug Endangered Children Protocol

The South Carolina Drug Endangered Children Protocol (SCDEC Protocol) addresses a narrow but dangerous category of cases: The investigation of a home or other structure where children are exposed to the manufacture of methamphetamine. Although inspired by the methamphetamine problem in our community, this protocol could be applied to any situation involving children's exposure to hazardous

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

chemicals. In all such cases, procedures must be in place to protect children exposed to harmful substances and to ensure that evidence is collected in a forensically sound manner. This protocol addresses both of these goals.

Part One: Pre-Response

Law Enforcement

1. **Contact the Drug Enforcement Administration.** Prior to any operational briefing, contact the Drug Enforcement Administration (DEA). DEA must be informed of an interdiction in order to use federal contractors to clean up meth sites. DEA also must submit a detailed report of any meth lab interdiction/cleanup to the entity mandated to collect that data.
2. **Contact a CPS worker.** Prior to the operational briefing, contact a CPS worker who is certified in the SCDEC Protocol. The CPS worker should attend the operational briefing.
3. **Obtain search warrants.** When drafting warrants, keep in mind the need to search for evidence of danger to children (chemicals in cupboards and other containers within the reach of children; sexually explicit material that is commonly found among methamphetamine addicts).

Child Protective Services (CPS)

1. **Gather clothing for children.** Create a clothes bank from local merchants or other organizations that are able to provide clothing for children (consider also asking for donations of blankets, stuffed animals, books, and games). Implement a system for taking the clothes and comfort items to the scene to replace contaminated items.
2. **Begin identifying potential foster care placements.** Maintain information for foster parents on caring for children who have been exposed to a methamphetamine lab.

Fire Department/Emergency Medical Services

Plan decontamination procedure. Work with local law enforcement to prepare a method of decontaminating any person located at the site of a lab.

Part Two: Responding at the Scene

Law Enforcement

1. **Take the lead in securing the scene.** In addition to securing the scene for evidence collection purposes, LE must secure the scene to protect all people present. CPS and Fire Department/EMS (FD/EMS) responders should not approach or enter buildings until the premises are declared safe by law enforcement.
2. **Notify CPS immediately if children are at the scene.** If CPS has not been involved in the pre-operational briefing, notify CPS immediately if children are found at a lab site. CPS also should be notified if children are not at the scene, but there is reason to believe: (a) children have been exposed to chemicals or drugs from the lab; and (b) a parent or guardian allowed the children to be at the lab site.
3. **Protect any children at the scene.** One officer should have primary responsibility for ensuring the safety of children at the scene. This officer should:

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- (a) Take Emergency Protective Custody (EPC) of the child. A case-by-case determination of EPC is necessary, but virtually every child exposed to the manufacture of methamphetamine will be in substantial and imminent danger.

Note: Even if CPS expects to place the child with a relative, it is important to take EPC of every child who is in imminent and substantial danger.

- (b) Remain with the children until the CPS worker arrives. When a CPS worker has been involved in the pre-operational briefing, the transfer to CPS care can be immediate.

- (c) If a CPS worker is unable to respond to the scene, the officer should transport the child to a medical facility.

4. **Notify EMS immediately** to evaluate and transport children to medical care when urgent health concerns or evidence of contamination of children are present.

5. **Decontaminate children exposed to toxins.** All children should be decontaminated under the supervision of DEA-certified or hazmat-trained personnel.

- (a) Special consideration should be given to children's privacy and dignity and children should immediately be provided age-appropriate clothing.

- (b) Following decontamination, contaminated clothing should be placed in a plastic bag pursuant to evidence collection procedures.

6. **Identify chemicals for purposes of children's health care.** Use Form Two to identify chemicals at the scene. A duplicate of this form (Form Three) should accompany children to the medical examination and should become part of the children's health care records.

7. **Collect evidence.**

- (a) Photograph or videotape the location. When making a visual record of the location, pay special attention to chemicals and weapons accessible to children (e.g., in or near the kitchen, bedrooms, playrooms).

- (b) Photograph or videotape the children. Record the general condition of children that would show evidence of abuse, neglect, contamination, or other injury.

- (c) Measure and record location of chemicals and other items that are dangerous to children.

- (d) Seize physical evidence pursuant to evidence handling procedures. Likely items include: computers, weapons, chemicals, blister packs, and sexually explicit materials.

Note: Follow appropriate agency protocols and policies concerning the collection, storage, and disposal of hazardous materials.

8. **Interview children.** As soon as possible (usually within 48 hours), conduct a forensic interview of children pursuant to local interviewing protocols. The purpose of this interview is to gather information from children about harms they may have experienced.

Child Protective Services

1. **Attend to children at the scene.** After law enforcement has taken emergency protective custody of any children, the CPS caseworker should assume the primary role with respect to any children at the scene and remain with the children through the medical assessment and until the children are in appropriate placement.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

2. **Collect information on children's health history.** Using Form Four, collect health history information about children from parents, children, or other adults available at the scene. This form should become part of the medical record at the facility evaluating the child.
 - (a) If a search can be safely conducted, check the facility for children's medication, medical equipment (e.g., nebulizer, glucometer), glasses, contacts, and other equipment. Thoroughly describe all medical equipment on Form Four. In most cases, medications and medical equipment that have been exposed to toxins in a methamphetamine lab will need to be destroyed.
 - (b) To the extent possible, obtain a signed release from parents or legal guardians for access to all prior medical records of children.
3. **Accompany children to the medical facility.**
 - (a) Children who are not in critical condition should be decontaminated at the scene before any transportation to a medical facility.
 - (b) CPS should inform the health care provider of the children's health records, medications, and any health equipment used by the child.
4. **Attend to children not at the scene.** Children who have been exposed to a lab may be at another location at the time of the interdiction. CPS must attend to these children who are not at the scene. In cooperation with law enforcement, CPS should promptly evaluate the safety and well-being of these children. The medical components of this protocol should be followed for any children with significant exposure to a site.

Emergency Medical Services (EMS)

1. For all children who are not obviously critical, perform a field medical assessment consisting of: *vital signs* (temperature, pulse, respirations, blood pressure); and the *pediatric triangle of assessment* (airway, breathing, circulation).
2. Transport any children to the hospital immediately if:
 - (a) The lab is actively manufacturing methamphetamine at the time of the interdiction;
 - (b) There is an explosion at the lab where children are present;
 - (c) The children appear ill; or
 - (d) There are signs of chemical exposure, including:
 - (i) Breathing difficulty or distress, prolonged coughing, wheezing, gagging, dry or sore throat, pain or tightness in chest;
 - (ii) Red, watering, burning eyes;
 - (iii) Burns or a burning sensation on the skin;
 - (iv) Strong smell of ammonia, cat urine, chlorine, or other chemical odors on the children or clothing;
 - (v) Unusual behavior (e.g., very sleepy or difficult to arouse in the daytime, overly stimulated, fidgeting, trembling, agitated).

If there are signs of acute chemical irritation, give first aid immediately, including flushing eyes and skin with water.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Part Three: Medical Assessments

Immediate Care Assessment

All children should be taken to an appropriate medical facility for an immediate care assessment within 4 hours, and not later than 6 hours, of a child's removal from a methamphetamine lab. The facility to be used will depend upon the severity of the medical condition, the urgency of the problem, and the time of day.

An appropriate medical facility includes: (a) a provider affiliated with a regional child advocacy medical assessment center; (b) a local physician trained in the SCDEC Protocol; or (c) an emergency department trained in the SCDEC Protocol.

1. **Review child's medical history.** The physician should receive information from CPS and law enforcement on the *chemicals* to which children may have been exposed and the children's *medical history* (to the extent this is available).
2. **Review of systems** (standard medical review). This review should pay attention to neurological and respiratory status.
3. **Urine toxicology screen.** Collect a urine specimen for toxicology screening *within 6 hours, and not later than 12 hours*, of the discovery of a child at a lab site.
 - (a) Instruct to report urine toxicology screen at any detectable level.
 - (b) Follow up on all positive urine tox screen with gas chromatography/mass spectroscopy.
 - (c) Be sure to document the chain of custody.
 - (d) Instruct to save a portion of the sample for later confirmation of positive test results.
4. **Perform O2 saturation level.** Consider chest X-ray AP/lateral, if indicated.
5. If appropriate to the medical facility, follow the steps in the baseline medical assessment.

Baseline Medical Assessment (within 24 to 72 hours)

Within 24 to 72 hours after a child is identified at a lab site, the child should receive a baseline assessment from an appropriate medical provider. An appropriate medical provider is: (a) a provider affiliated with a regional child advocacy medical assessment center; or (b) a local physician trained in the SCDEC Protocol. Prompt medical assessment is warranted due to the risk of toxicologic, neurologic, respiratory, dermatologic, or other adverse effects of methamphetamine lab exposure, and the high risk of abuse and neglect.

1. **Review child's medical history.**
2. **Perform a complete pediatric physical exam.** Include as much of the Early Periodic Screening, Detection, and Treatment (EPSDT) exam as possible. Pay particular attention to vital signs (temperature, heart/respiratory rate, blood pressure), the *neurologic screen* and *respiratory status*.
3. **Conduct the following evaluations:**
 - (a) Liver function tests: AST, ALT, Total Bilirubin and Alkaline Phosphatase.
 - (b) Kidney function tests: BUN and Creatinine.
 - (c) Electrolytes: Sodium, Potassium, Chloride, and Bicarbonate.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- (d) Complete Blood Count (CBC).
- (e) Consider lead level (on whole blood).
- (f) Obtain urinalysis and urine dipstick for blood.
- (g) Obtain results of urine toxicology screen/confirmatory tests done at immediate care assessment.
- 4. **Conduct a developmental screen.** This is an initial age- appropriate screen, not a full-scale assessment; may need referral to a pediatric specialist.
- 5. **Provide a mental health screen,** as clinically indicated. These services require a qualified pediatrician or mental health professional and may require a visit to a separate facility.
- 6. **Follow-up.** For any positive findings, follow-up with appropriate care as necessary. All children must be provided long-term follow-up care.

Follow-up care

- 1. **30 day visit.** A visit for initial follow-up care should occur within 30 days of the baseline medical assessment to reevaluate comprehensive health status of the child, identify any latent symptoms, and ensure appropriate and timely follow-up of services. If possible, the visit should be scheduled late in the 30-day time frame for more valid developmental and mental health results. Follow-up on any abnormal test results.
- 2. **Long-term follow-up.** Long-term follow-up care is designed to monitor physical, emotional, and developmental health; identify possible late developing problems related to the methamphetamine environment; and provide appropriate intervention. At minimum, a pediatric visit is required 12 months after the baseline medical assessment. Children considered to be drug endangered should receive follow-up services a minimum of 18 months after identification.
 - (a) Follow-up of previously identified problems.
 - (b) Perform (EPSDT) comprehensive physical exam and laboratory examination with particular attention to: (1) liver function (repeat panel at 30-day visit only unless abnormal); (2) respiratory function (history of respiratory problems, asthma, recurrent pneumonia, check for clear breath sounds; (3) neurologic evaluation.
 - (c) Perform developmental screen.
- 3. **Developmental and mental health evaluations.** The following services require a child psychologist, qualified mental health professional, or licensed therapist.
 - (a) Perform a full developmental examination using an age-appropriate instrument within 30 days and 12 months after the baseline medical assessment.
 - (b) Perform a mental health evaluation within 30 days and 12 months after the baseline medical assessment.
 - (c) If abnormal findings, schedule referral and intervention with appropriate provider.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Part Four: Implementing the Protocol

Training and dissemination

1. **Train first responders.** First responders, medical professionals, and CPS should receive in-depth protocol training resulting in SCDEC Protocol certification. Only personnel certified in the SCDEC Protocol may participate on a DEC team.
2. **Train the child protection community.** Pediatricians, judges, foster parents, school personnel, and guardians ad litem should receive general DEC training.
3. **Mail to relevant professionals.** Mail the protocol to all South Carolina hospitals with the request that it be discussed at a staff meeting within the Emergency, Pediatrics, Nursing, and Administration departments.

Protocol review

1. The county DEC team should review all cases of children removed from methamphetamine lab sites. The DEC team should work closely with the local child abuse multi-disciplinary team in conducting these case reviews.
2. A statewide working group will be established to receive feedback on the protocol from counties and make appropriate revisions to the protocol.
3. DEC team certification will be renewed annually.

Explanation of Forms

1. The forms appended to this protocol and are intended to be incorporated as part of the SCDEC Protocol. The forms are:

Form One: Hazards to Children

Form Two: Location of Chemicals (Law Enforcement Copy)

Form Three: Location of Chemicals (Medical Provider Copy)

Form Four: Form Four: Medical Information

Form Five: Medication

Form Six: Medical Exam Information

2. Forms One and Two are intended to assist law enforcement officers in documenting dangers at the scene posed to children. These forms should become a part of the law enforcement officer's case file.
3. Forms Three through Six are intended to assist medical providers in diagnosing and treating children. These forms should become part of the child's medical record and remain with medical providers.

Acknowledgements

Much of the language in this protocol is taken from the Nebraska CHEM-L Protocol developed under the direction of Dr. Gregg Wright at the University of Nebraska's Center on Children, Families, and the Law. The medical portions of this document were taken from the Kempe Child Protection Team in Denver, Colorado, under the direction of Dr. Kathryn Wells. Additional language was adapted from a model

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

protocol developed by the National Alliance for Drug Endangered Children. We are grateful to these individuals and organizations for granting us permission to borrow liberally from their documents.

Endorsements

The following individuals endorse the SCDEC Protocol on behalf of their agencies or associations.
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South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

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758.01.03 Excessive Corporal Punishment Guidelines
Revision Number: 08-02, Effective Date: 07/31/2008

I. HISTORICAL BACKGROUND

The General Assembly of South Carolina has acknowledged that parents have the authority and responsibility to discipline their children but holds that parents do not have the right to abuse their children. Parents should be

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

supported in their efforts to provide for the needs of their children. S. C. Code of Laws Ann. (Supp.1997) Section 20-7-490(3) defines harm to a child and excludes corporal punishment which meets certain guidelines.

Section 20-7-490(3):

'Harm' to a child's health or welfare can occur when the parent, guardian, or other person responsible for the child's welfare:

- (a) inflicts or allows to be inflicted upon the child physical or mental injury, **including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical discipline which:**
 - (i) **is administered by a parent or person in loco parentis;**
 - (ii) **is perpetrated for the sole purpose of restraining or correcting the child;**
 - (iii) **is reasonable in manner and moderate in degree;**
 - (iv) **has not brought about permanent or lasting damage to the child;**
 - (v) **is not reckless or grossly negligent behavior by the parents.**

In 1988, in a landmark decision of the case of South Carolina Department of Social Services vs. Father and Mother, 366 S.E.2d 40 (Ct.App.1988), the Court of Appeals of South Carolina held that: (1) corporal punishment inflicted by father, which left large purple contusions on back of child's left thigh and right leg, and a bruise on the temple, was excessive and constituted child abuse under statute, and (2) statute prohibiting such conduct was not unconstitutional on theory that it denied father his right to religious liberty under First Amendment. Although this situation involved a parent administering discipline, the court ruled that the punishment was not reasonable in manner nor moderate in degree because the father beat the child with a belt leaving large purple contusions covering almost the entire back of her left thigh and part of her right leg, even though the child was wearing long pants, and also hit her in the face while he was wearing his college ring, leaving contusions on the right temple. The court found that the child's skin was impaired by beating by the father, so as to constitute impairment of a body organ. Medical testimony stated that a "great deal of force" was necessary to inflict the injuries causing the court to rule that the discipline was not reasonable. While this case has been used to justify indicating reports of excessive corporal punishment dealing with minor bruises, it is important to remember that this situation does not deal with a minor bruise, but excessive force and extensive injuries and a finding that the force used was not "reasonable in manner nor moderate in degree" (Section 20-7-490(3)(a)(iii)). Minor bruising would not support a finding of excessive corporal punishment if the criteria in Section 20-7-490(3)(a)(iii) are met.

Most medical personnel and psychologists agree that physical discipline should not be used on children who are under 12 months of age. These professionals believe if any corporal punishment is used on a child, the child should be developmentally, emotionally and physically normal. They also agree that punishing children who lack the cognitive skills to understand the consequences does not get the message across and does not accomplish the purpose of correcting or retraining the child. Generally, children over the age of 12 years do not respond well to corporal punishment and other methods are more effective in achieving the ends of changing behavior.

Children's advocate organizations warn that physical punishments can lead to serious injury or death. Child protection and medical professionals agree that many persons who are found to be physically abusive as adults were also corporally punished as children. However, it is important to remember that not all children who are corporally punished grow up to be abusive adults. While many professionals discourage the use of corporal punishment in many situations, the law in South Carolina does not prohibit it.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

II. Guidelines for Assessing Excessive Corporal Punishment

The SC Court of Appeals case of Father and Mother established that the skin is an organ and bruising to the skin can be considered "permanent and lasting damage to a bodily organ" as defined by statute. This case dealt with extensive bruising to the child's legs and thighs as well as a blow to the forehead which left a bruise. These injuries and testimony that they were intentionally inflicted and the blow to the face demonstrated to the Court that the force used by the father was not moderate in degree nor reasonable in manner. The judges did not say that minor bruises with no other indicators of abuse should be determined to be child abuse. All the facts of the situation must be considered and assessed to make a determination of physical abuse due to excessive corporal punishment. Careful attention must be given to the criteria as set forth in Section 20-7-490(3)(a)(iii) and efforts made to determine whether any bruise has been inflicted in a way not "reasonable in manner and moderate in degree".

It is not the purpose of this section to debate the use of corporal punishment, but rather to provide guidelines for staff who are expected to make critical judgments distinguishing appropriate corporal punishment from excessive corporal punishment or physical abuse and then make decisions regarding the level of risk in which the child may be. This can be a very difficult decision for the worker. The following questions are provided to operationalize the statutory guidelines outlined in Section 20-7-490. **Staff are reminded that minor bruises as a result of corporal punishment must be assessed in light of all other factors. Minor bruises should not be the sole reason for indicating a report of excessive corporal punishment nor for requesting the removal of the victim child or siblings. This is not a new requirement but a clarification of existing policy and procedures.**

A. Statute Requirements

(i) is administered by a parent or person in loco parentis;

Persons who administer corporal punishment to children must be parents, guardians or someone else as defined by the S. C. Code of Laws Ann. Section 20-7-490(5). Persons in this capacity have a unique relationship with the child and the right and responsibility to discipline the child. A person not in this capacity has no authority to discipline a child.

- What is the relationship between the child and the person administering the punishment?
- Does this person have a relationship with the child not defined by statute and society?
- If yes, what is the impact on the child of that relationship?

(ii) is perpetrated for the sole purpose of restraining or correcting the child;

Corporal punishment must be administered to correct a child's behavior or to restrain a child who is out of control.

- What is the intent of the parent in using the corporal punishment?
- What is the behavior of the child the parent wants to change?
- Is the discipline appropriate to the offense so that the child can make the connection between the misbehavior and the punishment?
- Are other forms of discipline used (i.e. progressive in nature or always use corporal punishment)?

(iii) is reasonable in manner and moderate in degree;

The way in which the corporal punishment is administered must be within reasonable limits, it must be moderate and not excessive or extreme, nor violent.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Father and Mother vs. SCDSS case heard by the SC Court of Appeals ruled that the father's actions were not reasonable in manner nor moderate in degree as there were extensive bruises to the legs, thighs and forehead of a child. Minor bruises as a result of corporal punishment must be considered in conjunction with other indicators of abuse to result in an indicated finding.

- Is the discipline appropriate to the age and/or developmental state of the child? Generally, corporal punishment is not appropriate for a child under 15 months and not particularly effective for a child over the age of eight.
- Corporal punishment may not be appropriate for children with handicapping conditions who are not able mentally or emotionally to understand the discipline or are physically fragile.
- Are instruments (for example: paddles, sticks, electric cords, other) used as part of the discipline?
- Where are strikes or blows located?
- What harm did the child suffer from the discipline?

(iv) has not brought about permanent or lasting damage to the child;

The purpose of corporal punishment is not to severely injure a child but to change an undesirable behavior.

- Was the child harmed? If yes, how serious was the harm?
- Was medical attention needed?
- What was the medical assessment of the injury?

(v) is not reckless or grossly negligent behavior by the parents.

Parents are expected to administer corporal punishment while in control of their actions so as not to injure the child.

- Did the situation involve a loss of control by the parent?
- Was the parent's loss of control due to stress from a specific crisis, such as loss of employment, death of family member, divorce, or other?
- Is there chronic stress in the family due to a lack of skills, lack of impulse control, abuse of drugs or alcohol or other?

Family Functioning

- Do the adults use violence to solve problems in the family or with other persons?
- Does the family generally operate in a reasonable manner?
- Do the parents have extended family or other support systems to help them through difficult times?

B. Assessing Child Safety

As part of the process to determine if a child has been abused and whether removal from the parents is necessary, the following factors must be considered in order to accurately assess the present danger threats and level of future risk to the child. These factors are the basis for the safety assessment. Although any one of the considerations listed may support that a child is unsafe or at risk of harm, usually it is a combination of several factors which lead to the determination that a child is or is not at imminent danger and cannot be protected in the home.

The Child

Assess the seriousness of the child's current physical condition.

- Has the child suffered harm?
- If yes, what is the location of the injury and the seriousness?
- Does the child need medical attention?
- If yes, what is the medical assessment of the injury?

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- Does the child require hospitalization?
- Is the condition chronic or acute?

Assess the child's current emotional condition.

- Is the child withdrawn or uncommunicative?
- Is the child fearful of his or her parents?
- Is the child provocative?
- Is the child self-destructive?

Assess the child's ability to protect him or herself.

- What is the child's age?
- Does the child have any physical, emotional, or intellectual handicaps?

Assess the effect of the maltreatment on the child.

- Is the child likely to suffer from short-term harm?
- Is the child likely to suffer permanent damage, either physical or emotional, from the maltreatment?

The Parent

Assess the parent's explanation of the child's condition.

- Is it inconsistent with the child's condition?
- Is it inconsistent with the child's physical and/or developmental capabilities?
- Does the parent blame the child for the child's condition?
- Does the parent admit to abusing or neglecting the child?
- Does the parent's story sound rehearsed?

Assess the parent's attitude toward the child's condition.

- Does the parent understand the severity of the injury or condition?
- Does the parent seem concerned or unconcerned about the child's condition?
- Is the parent willing to obtain medical or psychiatric care for the child?

Assess the parent's attitude toward the investigation.

- Is the parent extremely hostile?
- Does the parent threaten you?
- Is the parent overly compliant, telling you everything you want to hear?
- Is the parent willing to participate in the investigation?

Assess the emotional condition of the parent.

- Is the parent able to communicate with you?
- Does the parent grasp the reason for your presence?
- Is the parent delusional or having hallucinations?
- Does the parent's behavior seem inappropriate, bizarre, or out of place?
- Does the parent appear to be volatile, unable to control his or her impulses?
- Does the parent seem to be overwhelmed or immobilized?

Assess the parent's strengths.

- Does the parent recognize his or her problems?
- Is the parent willing and/or able to admit he/she has problems?
- Is the parent willing to problem solve with you regarding what needs to be done to protect the child?
- Is the parent willing to take action to protect the child and remedy his/her problems?
- Is the parent isolated?
- Does the parent have friends or relatives to whom he/she can turn to for support?
- Does the parent seem to be motivated to change his/her situation?

Assess the parent-child relationship.

- Is the parent able to comfort the child?

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- Does the child look fearful or cry when the parent approaches?
- Do either of the parents stiffen when the child approaches them or when the child cries?
- Does the parent yell at the child unnecessarily?
- Does the parent strike the child in your presence?
- Does the parent seem over-solicitous toward the child?
- Do the parents appear to use inappropriate or excessive discipline?
- Do the parents appear to be unable to adequately care for the child?
- Do the parents ignore the child?
- Does the parent compete with the child for your attention?
- Do the parents appear to scapegoat the child?
- Do the parents appear to favor any of their children?
- Are the parents unwilling or unable to discipline or provide structure for their children?

The Home Environment

Assess the physical condition of the home.

- Is the home safe?
- Are there exposed wires?
- Is the house a fire hazard?
- Is there a bed for the child?
- Is there adequate food?
- Do the parents have the necessary materials to care for the child?

Previous Maltreatment

Determine whether the child has suffered previous maltreatment.

- Have there been previous reports of abuse or neglect (either the same or different allegations)?
- Are the previous reports founded or unfounded?
- Does the child state that this is a one-time occurrence?
- Does the reporter state that this is not the first time he or she witnessed the child's condition?
- Do x-rays, medical records, or other documents substantiate that the child has been maltreated previously?
- Have other siblings experienced maltreatment? If yes, how serious were the injuries?

C. Removal Criteria

The following criteria should be considered in conjunction with the above guidelines and the information gathered as a result of the investigation, interviews, and observations to determine if a child should be removed from the home.

- The presence of potential maltreatment in the home is such that the child has suffered or could suffer permanent physical or mental injury if left there.
- The child needs immediate medical or psychiatric treatment which the parents refuse to obtain.
- The child's present physical or emotional injuries require a special environment for treatment and recuperation which the family cannot or will not provide, e.g., a hospital, quiet or physical control.
- The child's sex or physical or mental condition renders him incapable of self-protection, or for some reason his characteristics or condition are intolerable to the parents.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

- The evidence suggests that the parents have or are probably systematically resorting to disciplinary methods which are completely inappropriate responses to the child's behavior, e.g., extreme verbal or physical punishment of a child who makes a simple age appropriate request.
- The parents acknowledge being abusive and agree that they will probably continue to be abusive if the child remains in the home.
- The physical environment in the home poses an immediate threat and danger to the child, e.g., it is extremely unsanitary, there is a total absence of food, the shelter/heat is completely inadequate for the weather.

If any or all of the above criteria are found to be true through the investigation, removal of the victim child from the parents is supported. Removal of siblings of a victim child is based upon the likelihood of future injury to that child if left in the home environment.

761 Flex Funds

Revision Number: 08-03, Effective Date: 12/22/2008

761.02 Social Service Block Grant (SSBG) Flex Funds

Social Service Block Grant (SSBG) provides States with flexible funds that can be used to support services for child welfare clients in the family's efforts to maintain and preserve the family when the family experiences financial problems.

761.02.01 Philosophy of SSBG Flex Funds

We believe that it is better for the child, the family and the State to use funds to prevent removal of children from their families when the only reason for removal is due to lack of finances for basic needs. We also believe that it is better to use funds to assist with the early reunification of children whenever possible when a financial issue interferes with reunification.

761.02.02 Legal Basis for SSBG Flex Funds

Title XX of the Social Security Act and the federal and state guidelines for the Social Services Block Grant (SSBG) provide the legal basis for SSBG Flex Funds Program.

761.02.03 Agency Policy for SSBG Flex Funds

State, county and regional DSS offices shall ensure that these funds are used for approved services as defined in Section 761.02.09; use SSBG eligibility criteria to determine eligible clients; have the client sign the declaratory statement, DSS-3795 when the client is not a CPS or Foster Care client; and complete documentation in the Child and Adult Protective Services System (CAPSS) to ensure adequate information is available for federal reporting requirements.

In order to ensure compliance, county and regional DSS offices will develop a written plan for administering the funds and maintain the plan in the county office. The county plan should include at a minimum: the approval process; who will maintain the budget; and who will be responsible for documenting information in CAPSS.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

SSBG funds should be used only after Medicaid or private insurance funds have been expended or when the client is ineligible for Medicaid and no other resources are immediately available to the Agency or the individual.

761.02.04 General Eligibility

Clients must meet the SSBG eligibility requirements in order to receive Flex funds. Three sets of criteria are used in determining eligibility for services –target group eligibility, economic eligibility, and need. The income criteria for receiving SSBG services does not apply to CPS or Foster Care, or any other SSBG service offered in conjunction with CPS or foster care. Flex fund services must be authorized in CAPSS in the open CPS or foster care case. For other type cases, clients must meet the SSBG eligibility requirements for target group, need and income below 200% of poverty as documented in CAPSS as a support service in order to receive SSBG Flex Funds.

761.02.05 Target Groups to be Served Through SSBG Flex Funds

1. Families with children at risk of placement due to child abuse or neglect.
2. Child Protective Services families and families of children in foster care less than six months.
3. Families of children who have been in foster care more than six months where early reunification is possible.
4. Foster families and children in foster care to prevent disruption and/or enable the families to meet special needs of the children.
5. Adoptive families to facilitate the adoption process.

761.02.06 SSBG Flex Fund Definitions

SSBG Flex Funds - Funds specified and given to county/regional office staff to purchase items and/or services to preserve, strengthen, and reunite families.

Authorization Period - The authorization period can be no longer than 365 days but can be less and determined based on client need, availability of funds, and/or any other issue identified by the county or region office plan.

761.02.07 Flex Funds Goals

If the client meets the general eligibility requirement, the use of the funds must meet one of the following goals:

1. To prevent placement in cases in which the child can be safely cared for at home or with a relative when the safety need can be met with Flex Funds.
2. To reunify the child with the family or relative.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

3. To prevent disruptions in foster and pre-adopt families.
4. To prevent abuse from occurring or reoccurring in an active CPS or Foster Care case.
5. To facilitate adoption.

761.02.08 SSBG Funding Limits

Funds **cannot** be used:

1. If Medicaid, private insurance, or other personal or agency funding is available.
2. For residential treatment.
3. To purchase or improve land, to purchase, construct or make permanent improvements to any building or other facility other than minor remodeling.
4. To provide subsistence payments or room and board, unless these are an integral part of another social service, or are needed as a protective service.
5. To provide an educational service which the state makes generally available to its residents without cost and without regard to income. Expenses for higher education are not allowed.
6. To make cash payments for any purpose directly to families.
7. To renovate, repair, equip or otherwise improve Foster homes. Neither can these funds be used for routine training or recruitment of foster parents.
8. For DSS equipment, salaries, or to benefit DSS employees, i.e. monetary incentives, travel, training, etc.
9. To match other federal funds.
10. To purchase household items such as a stove or refrigerator that cost more than \$499.99 according the State Procurement policy.
11. To pay for medical care unless it is an integral but subordinate part of a social service.

761.02.09 Approved Services

The following services are approved for funding under SSBG Flex Funds. Examples of expenses are included in each approved service; however, funding is not limited to these specific expenses. These services must be linked to the Flex Funds Goals in Section 761.02.07. These services must have a clear and explicit link to the safety threats and /or the behavioral changes identified in the case family assessment and treatment plan.

Subcode 2001, Housing/Financial Assistance: Temporary shelter, food, clothing and related services required by families with children in order to cope with a situation which is an imminent threat to the stability or well-being of the family. Also included are rent and home repairs, including minor repairs to rental property. When rent deposits are made for clients, the county must include a notice with the payment that the deposit must be returned to the county.

Subcode 2002, Child Care: Because other funding sources for child care are available, this service may be used for only short term, time limited (2 weeks or less) in one 365 day authorized period for Group Child Care (*State licensed care for seven to twelve children*), Family Child Care (*State registered, family home day care for up to six children*), Child Care Center services (*State licensed, center-based day care for thirteen or more children*) approved by Division of Child Care may be purchased for families when the unassisted, daily care of

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

children by their family presents an unacceptable risk of continued abuse and/or placement AND other child care is unavailable. Child care services are for children through 12 years of age. The services are provided away from their own homes for less than 24 hours per day. The child care services must correct or prevent a situation that would lead to an out of home placement of one or more children. For long term child care, see ABC Voucher Program.

Subcode 2003, Counseling: Individual, group, family, pastoral, drug/alcohol abuse, in-home crisis, marital, and other forms of counseling may be purchased for families when the provision of counseling services will help the family and/or individuals within the family to resolve issues that contribute to the immediate safety threats and the risk for out-of-home placement of children and are clearly linked to the service plan. Counseling services that take place in the family home are highly recommended. The counseling must be provided by a State licensed, certified, or registered counselor, social worker, psychologist, psychiatrist, family therapist, pastoral counselor, or other qualified service provider acceptable to the county.

Subcode 2004, Parenting Skills Training: A structured approach designed to enhance parents' protective capacities and to heighten parents' awareness and understanding of their children's needs and to improve methods parents employ in responding to and providing for their children. Examples of this service are Parent Effectiveness Training, Active Parenting, and Systematic Therapeutic Effective Parenting, all of which support changes in parental behavior as means for making children safe and enhancing well being.

Subcode 2005, Caretaker Services: A paraprofessional, paid or volunteer, who functions principally as an advisor or surrogate parent for a family on a short-term and/or emergency basis. Caretakers particularly serve mothers by providing positive reinforcement, emotional support, and nurturance and by providing and arranging transportation, baby-sitting, etc., as needed. This category may also be used to pay for respite care and 24-hour child care when parent(s) are hospitalized or otherwise unavailable.

Subcode 2006, Medical/Dental: Medical/Dental services are provided only if the services are an integral part of the treatment plan and identified as needed to keep a child safe. They should be short term and used only if no other source of funding is available. Physical assessments required to determine medical needs of family/child are authorized. Providers must be licensed and otherwise qualified to practice their medical or dental specialty. Drug testing for diagnostic purposes are permitted when there is a clear and explicit link to the safety threats and /or the behavioral changes identified in the case family assessment and treatment plan.

Subcode 2007, Psychiatric/Psychological Test/Evaluation:

The administration of a battery of individual psychological tests and/or the use of clinical interviewing techniques to arrive at an assessment of an individual; or family's social, intellectual, and/or psychological well-being; to obtain recommendations for treatment, educational needs, or case disposition; and for psychiatric/psychological diagnosis, if appropriate. These evaluative techniques must be conducted by a psychiatrist, licensed psychologist, or certified school psychologist.

Subcode 2008, Transportation/Escort Services: Necessary transportation and/or escort services to and from facilities or resources in order to receive appropriate services. Reasonable

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

car repairs may also be authorized by the county director when such repairs would preserve, strengthen or reunite families and funds are available.

Subcode 2009, Energy Assistance: Funds may be approved for a family's energy needs, including utility bills and other heating and cooling costs. When utility deposits are made for clients, the county must include a notice with the payment that the deposit must be returned to the county.

Subcode 2011, Wrap-Around Services: Any service not defined above or not explicitly excluded as an approved service, may be purchased with SSBG funds as a Wrap-Around Service, provided it is needed to strengthen, preserve, or reunite families and no other funding source is available.

761.02.10 SSBG Flex Funds Application Process

The application must be completed in a face-to-face interview. The interview may take place in or out of the office, depending on the needs of the client. The DSS Form 30157 can be used to guide the interview process as that form outlines the necessary information to be documented on CAPSS.

An application for service consists of completing the documentation required in CAPSS and the DSS-3795 to document financial need when the client is not a CPS or Foster Care client. CPS and Foster Care Clients are provided services without regard to income. When appropriate, the DSS-3795 must be completed in its entirety; dated and signed by the client or client's representative and the caseworker. If for any reason the client cannot sign the application, this reason must be documented in the client signature block. The signed declaration of the client/applicant shall be accepted in lieu of documenting income if sufficient information is available to complete the application and establish eligibility. If the information is questionable, verification may be requested, but the reason shall be explained in the case record.

During the application process, the applicant may decide to withdraw the application request. If this happens, a case record is established using a county or regional office number as identifier. If the application is denied, the applicant must be given the reason for the denial.

761.02.11 SSBG Flex Funds Authorization Process

After the family is determined eligible, SSBG funds can be used to assist with efforts to preserve, strengthen, or reunite families. The worker will identify the services needed and then authorize Support Services in CAPSS with the head of family as primary client. If the family is already receiving another service, such as Child Protective Services, services could be authorized in conjunction with the other service. If the family has a child or children in foster care, Support Services should be authorized in the name of the child's head of family and the already existing family number should be used. The worker will go through the eligibility process for support services and authorize the appropriate 2000 series service code for the client. The authorization period begins on the date the DSS-3795 is signed and extends as long as the county determines appropriate, based on county policy.

South Carolina Department of Social Services
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

761.02.12 SSBG Approval Process

The approval process should be defined in the county or regional office written plan for administering funds under SSBG Flex Funds within the guidelines and limitations found in this section. The plan should also specify who is responsible for documenting in CAPSS and tracking expenditures to manage the budget. The plan will be maintained in the county or regional office and may be subject to auditing. The county or regional office has the option of determining what approval process will be used for SSBG Flex Funds but the county or regional must stay within the allocated budget. State Office approval is not required in granting approval of expenditures.

761.02.13 SSBG Flex Funds Expenditures

CAPSS will generate a monthly listing of all expenditures entered during the month for record keeping and auditing purposes. The report SS130-R01 will be posted to DocView. Each county is responsible for reconciling the data on CAPSS to ensure that their budget is maintained.

The information on CAPSS and the signed 3795 will be maintained for a minimum of three years for federal auditing purposes.

The following reports are available through the DSS Intranet.

SWS130MP1301	Flex Funds Client Report- Monthly
SWS130MP1302	Flex Funds Client Summary Report Monthly
SWS130QP1301	Flex Fund Client Report Quarterly
SWS130QP1302	Flex Fund Client Summary Report Quarterly